

HB0073 Allow Expungements –After the Completion of a Sentence

HB0523 Allow Expungement of Records Anytime for – Good Cause

HB0550 Allow Partial Expungement and repeal the UNIT RULE Similar to STODDARD vs. Maryland

<https://supreme.justia.com/cases/federal/us/395/711/> North Carolina vs Pierce

<https://caselaw.findlaw.com/court/md-court-of-appeals/1410566.html> Kevin Tremaine STODDARD

PEOPLE:

I URGE ALL OF YOU to SUPPORT THESE HOUSE BILLS Above, For the Reasons Stated Below.

This COSA Ruling is sending the wrong message and violates (NORTH CAROLINA v. PEARCE, 395 U.S. 711 (1969) regarding violations of probation. It also converts any conviction to a life sentence which is beyond what the Court can sentence you to or what the legislation intended. This COSA Ruling goes against all the efforts we have all been working towards and that is to give people a second chance, helping people get jobs and get curtail poverty and become productive citizens again.

The United States Supreme Court Ruled in 1969, North Carolina vs. Pearce that;

"You cannot receive a harsher sentence for exercising your Constitutional Right" It was bad enough to learn that a Maryland Expungement only meant to remove from Public View and that the F.B. I do not recognize Maryland Expungements as it does in other States. Because of this, you still have job limitations because of high security background checks and it does not restore your constitutional rights. Prosecutors I believe can and use expunged convictions against someone who was charged and convicted of a new crime. They can use "untried" bad acts to enhance your sentence you were never charged with or even questioned about at sentencing. There is a rule that prohibits the State from using 15 year old convictions if you receive a new charge to impeach you at the new trial, but if found guilty they can use it at sentencing. If they cannot use a 15 year old conviction at a trial, you should be able to have it expunged. This just proves that the State wants to keep people X cons and on poverty the rest of their life.

After reading this case about a violation of probation no matter how small/ technical it was or old it is will now prohibit everyone from ever expunging that conviction, I find it this being a Tragedy to Justice. When you violate probation, the Court can give you any part or your entire suspended sentence. With this NEW Ruling by the COSA, it prohibits you from ever expunging it which makes it a harsher sentence, which violates North Carolina vs Pierce, (1969) it also creates cloud of Double Jeopardy. Whether the court gives you part or all of your suspended sentence and you do it, you paid for the violation. Why keep punishing someone more after they paid their debt. It's like being kicked repeatedly even though you are already down. I have never read any laws that relate to probation violations or ever heard of any in 40 years that I have been reading case law. This probation violation issue has never been mentioned. If you receive a probation violation, you will never be able to expunge a conviction? They may as well go back to 2017 how it was before they expanded expungements and repeal 10-110.

I cannot say everyone is alike, but I perceive many people with a conviction on their record that can't expunge it now or ever may say to themselves, if they won't let me be normal again and live a normal

life, why should I care if I get another conviction etc. on my record. They have to eat and get money for their family if they have one or a place to sleep if it is only them. If they can't get a good paying job, a loan for a car or house, what incentive do they have not to commit more crimes? I spoke to many people in prison and they told me if they need something and don't have the money, they will take it. I believe this particular person had been in the system many times and was there for robbing a store or bank.

This COSA ruling had to be the idea and motivated by the State Prosecutors office in Maryland. Ever since 2017, when they expanded expungements, which was long overdue, the prosecutor's office in Maryland has been trying to block all forms of expungements for any reason even though all expungements in Maryland only removes a person's record from public view unlike other States. Other States have been moving forward and expanding their expungements laws to wipe their records clean and restore all of their constitutional rights so they can feel good about themselves again and go back to living a productive life. HB0073 is at least a small step in the right direction, so when you finish your entire sentence, it is removed from public view. Even if expunged, if your case was appealed and they wrote an opinion about it, it will remain in print online and books. Maybe Maryland will join other States and make an expungement of a record as if it never happened or existed as other States have done and so it restores all of your rights. Maryland on the other hand is doing the opposite and finding ways to block existing and future expungements. Receiving a probation violation can be motivated, depending on which probation officer you have, how you get along with them, if they were having a bad day because their car was stolen and they knew your conviction was for Stealing a car or had an argument with anyone prior to work. The point is there are hundreds of reasons that affect a person's mood that can and will influence their judgement and what they might do. This Argument is the same for a Judge presiding over your case during trial or at sentencing. A prosecutor has the same possibility to be motivated when they prosecute a case. Also the Prosecutors office should not allow a Prosecutor to specifically ask for a particular case. They may be prejudicial or motivated for many reasons, which can be personal or for unknown reasons. This happened to me and they never offered me a plea and went all out to prosecute me to the fullest extent of the law when most any other prosecutors would have offered a PBJ or Stet since they were nonviolent nor sexual related charges. Even a Police Officer who stops or arrests you has the same discretion of charging you or giving a warning and that may be motivated by unrelated reasons. Since each officer is different, it can and will affect someone's life just like each person connected with your prosecution. The first time I was arrested, it was for about 10 frivolous misdemeanors. Examples: Charged with carrying a loaded handgun. (I had a permit to carry in my wallet). Charged with carrying a concealed weapon. (This was a "bottle opener key chain the police removed from my keys) The State had the Maryland State subpoenaed about the gun charge but decided not to put them on the stand, so my attorney did and all they could say is I had a valid permit and that is what they said. As for the concealed weapon charge, the State Nolle prosequi it so we could not put our witness on the stand to testify that it was a bottle opener and he sold it to me. But the court allow my attorney to put some testimony on to show the prejudice of this trial. I had no prior record, owned a house and business in Maryland and have lived in Maryland most of my life. Since the police can influence a commissioner regarding your bail, they set my bail at \$500,000.00. At the next bond hearing, they changed it to No bond and days later to a \$20,000.00 cash bond. I believe the reason for that particular bond amount was they knew I had a little over \$24,000.00 with me when I was arrested. So I used it to bail myself out. (Also the reason I had a carry permit)

A few people related to the politician testified and one I am sure you all know lied I believe every time they opened their mouth. They also were caught each time and were impeached so much; it would have filled up a truck with peaches. They were like the Personness Tree because all the fruit it bared were lies. This was highly politically motivated. The two detectives testified that I confessed to everything voluntarily which was the first of many lies. One of them was working a secondary job as a security guard and his boss was an old client of mine and he told that officer that he knew me. Even said, I later learned that the detective told him that, they meaning the police, prosecutor and all their witnesses were going to say and do anything they can to convict me. Because of that this old client somehow got in touch with me or my attorney (which I do not recall who) and told us what this detective said to him and he came to court and testified to that. He told the jury, I did very good work for him and explained everything very good and he valued that like most all of my customers do. He said he had applied to be a police officer on Capitol Hill and said that detective wrote him a recommendation for that job but when the detective testified later, he denied writing it. In court the detectives were asked if they recorded, filmed, or had me sign a confession and the answer was no. They did admit they had a tape recorder, video camcorder and paper and pens in the station. I believe just about every police officer in Maryland testified and 99% of all of them were caught lying. There were no eye witnesses, no DNA, fingerprints, foot prints, security camera pictures or any physical evidence except a pair of plyers they said I threw in the trash before I was arrested in a sub shop. This became a big debate because they found them in a trash receptacle they admitted I was never near. They tried to say the restaurant must have emptied their trash before they searched for the plyers. The part the jury must have missed is that the officer who followed me into that restaurant who testified said, he was watching my hands very close because he knew I carried a gun and testified I never took my hands out of my pockets, "so how could I have thrown them in the trash?" I also want to add that I voluntarily surrendered my guns to the police. My attorney asked the court if I can have a gun dealer pick them up to sell for money for my defense and he denied that and I was not charged for anything to do with those guns and they were all legal. After the trial, the Jury found me guilty of one misdemeanor which they must have believed I threw the plyers away in spite of what the officer testified to. My sentence was one year but it was suspended and I believe five years' probation. I had the gun dealer pick up all my guns and sell them after trial. When he did pick them up all the gun cases were missing and they were all in expensive cases. I have seen the police steal several times now and there is nothing anyone can do about police thefts I learned.

This proves I have firsthand experience and knowledge of how corrupt and prejudicial the judicial system is and can be.

If a prosecutor requests your cases every time you are charged, it is prejudicial and more like persecution. The next prosecutor every time after that first case requested to prosecute in all cases involving me and never offered a plea unlike most and pushed for an enhanced sentences. That is not what Equal Justice Under Law is or means.

Inscribed above the entrance of the United States Supreme Court in Washington DC, is; "EQUAL JUSTICE UNDER LAW" On the East Side Entrance is inscribed "Justice the Guardian of Liberty." I had to go to the Supreme Court on business a few years ago to give them advice and pricing to change some equipment there. I also had some equipment installed at NSA about a year ago. I never had to go there but my wife has and can with her security credentials. I have been to Fort Meade with my wife since she can escort people with her badge. She does not discuss her work nor do I ask about it. She goes by the book period.

The Problem with these statements is, there is NO such thing as EQUAL JUSTICE UNDER LAW

Since there are so many hands and people in a case from the time you are arrested to the time you go to trial, many things can influence what happens to you and each one of them are different, Your chance of receiving Equal Justice can and will never happen. Just as each county and State are different.

Police Officers are not all the same. They have a great deal of Discretion to arrest someone or not as well and what they charge you with. Officers have different personalities, likes and dislikes. They can have good moods or bad. They may have had an argument with their Spouse before coming to work or have to work a shift they don't like. Their mood changes as much as any ones. It can change by the minute, hour or day.

States Attorneys also have a tremendous amount of Discretion and Power. Each one has different personalities. They also can be influenced by what has happened to them before work or the year before. Their Moods can also affect their day to day decisions. They have people's lives in their hands every day. It is up to each prosecutor to either offer them a plea bargain (PBJ) or Stet Docket the case for one year, or prosecute the case. They also have the ability to ask for a harsher sentence or a lesser sentence and have the power to dismiss a case before or after screening it or in front of a Judge. (The Takoma Torch) is a sad example I read about just yesterday.

Judges are people first and Judges second. I was once told by an attorney that it does not make any difference what Judge your case is tried before. "I would never hire that attorney!" The fact is, judges are not supposed to be bias, or prejudicial. I have seen where a Judge will recuse themselves for personal reasons and other ones may refuse to recuse themselves even if motioned to for valid reasons stated. Judges can be influenced by anything like anyone. Some more than others. Recently Supreme Court Justice Thomas was asked to step down. Ask yourself, do you believe if your case was tried three times and in front of three different judges and you were found guilty, they would all give you the same sentence? I do not gamble, but I would not consider that a gamble because I could never see that happening. A judge has the ability to direct a trial either way they decide. Even if a controlling case is cited, they can and will state on the record why they believe they can override the case cited and if appealed, the COSA or COA will normally not overrule it since he gave a reason on the record that since he was there to judge the demeanor of the defendant. I had a Judge before trial; ask the State and my attorney in chambers. When they came out, my attorney told me the Judge offered a plea of about 2 or 3 years and I said no. I was not told anything else that may have been said, so my attorney motioned for the Judge to recuse himself because he felt he had made up his mind that I was guilty. The Judge refused to and the trial started. The charge was possession or stealing hand tools and it had two counts. Believe me, the attorney who said it did not matter what Judge you get ate his words. The Judge's rulings during the trial were ludicrous to say. The judge said about a motion to suppress a search warrant because it was based on obvious common sense lies, the court denied it and said "He has racked his brain and cannot think of any reason a police officer would lie in this setting and in this court" I know they lied on the warrant. I was found guilty and that Judge did what I later learned what he said he would do prior to trial when in chambers. Only because I hired a different attorney just for sentencing did I learn what the Judge said to my attorney and the prosecutor in Chambers. When my new attorney met with the prosecutor the prosecutor probably thought my original attorney told me already what the Judge said in chambers. My new attorney also probably thought I already knew this as well and then told me. (I was

not told this before) He said the Prosecutor told him the judge told them in chambers that If I refuse his plea offer and go to trial and are found guilty, he would "HAMMER ME AT SENTENCING" My original attorney would not admit that was said and I know the prosecutor would not have said it unless he thought we already knew this and I now doubt my new attorney would have told me if he thought I didn't know it already. But the cat was out of the bag.

I told my new attorney to put this on the record at sentencing but he ignored me. Anyway, he sentenced me to two 15 year terms in prison and ran them consecutive and suspended 5 years of each and added 5 years' probation. After paying a new attorney to file a post-conviction, the State did agree to a new sentencing I believe to protect the Judge from being questioned at a hearing. The Judge I understand was asked and did not deny saying it. The new judge was not trying to do the right thing and should have put me back as they say "whole" and give me the sentence the original judge offered in chambers but did not. The new sentence was 30 years but suspended 10 years on each count which left me with 10 years and 20 back up with 5 years' probation and being nonviolent, basically the same sentence except 10 more years suspended. I did about five years. Have you known anyone who ever received this kind of sentence for stolen hand tools? Most people would not believe me and said I had to have murdered someone to receive that. Also they received everything back.

For reasons stated herein, this clearly shows that people deserve to have their case expunged. This post-conviction attorney charged me \$10,000.00 and the new attorney charged \$10,000.00 just for sentencing. I would never have known this if I had not hired him for sentencing. The original attorney I paid a great deal more and I felt he was an idiot which is why I hired the other attorney for sentencing.

Kevin Tremaine STODDARD v. STATE of Maryland.

This case is very important because allows partial expungements in many cases but is a strong argument why they should repeal the Unit Rule. Most people believed that an indictment was a Unit and you could not expunge any not guilty convictions or Nolle Prosequi charges from the Indictment if you were found guilty of even one charge out of 20 counts. That is not always true.

"The Court of Appeals said in Stoddard; just because the State wants to cram 20 charges into One Indictment does not make it a UNIT". If the charges happened on "different days", they are a different set of facts, and if this is noted in the Indictment and you were found Not Guilty or they offered you a Plea Bargain to plea to one of the charges and Nolle prosequi the remaining charges, you can ask to expunge the Units that were Nolle Prosequi or not guilty of in the other units within that Indictment. The part that is not written in the Unit Rule definition is a "different day" I asked dozens of attorneys if I could expunge convictions in my indictment and they said no. Since I won that motion, I have told many attorneys how to do this to help their clients and a legal clinic asked me to show their attorneys who volunteer at their clinics to help low income people how to do this. I did this to help others.

Let me give an example of an odd situation I encountered with the first judge I got when I filed for expungements based on Stoddard vs. Maryland. The Judge said, they are recusing themselves because they remember my name "from over 30 years ago" when they worked I believe in the clerical area on the first floor of the building. That left me speechless so to speak. If they cannot get over a 30 plus case, they have no business being a judge. I never saw them before nor did they tell me they remember me.

They said they will have it scheduled for another judge. When leaving the court house, I walked up to see an attorney I knew and when I went in I saw the attorney that I had 30 plus years ago who was my attorney for that trial. I told them what the Judge just did and said and even they were stunned and said the same thing I thought. My attorney said, it's been over 30 years and they can't get over it! The point is, they won't let you forget or get over it themselves.

The point is, The Court of Appeals felt like most. If the State wants to try and force someone into a Plea, they can add frivolous charges to any Indictments in order to pressure you into taking a Plea rather than taking a risk going to trial and facing years in prison. Even if you decide to exercise your Constitutional Right to a Jury Trial and are convicted to only one count, you're not guilty charges will remain in Public View forever or until that conviction becomes eligible for expungement. This is the reason why the UNIT Rule should be repealed. IN STODDARD vs. Maryland, it allows Partial Expungements even if they had subsequent convictions as long as they met the criteria the Court of Appeals set forth in Stoddard 2006. I believe the subsequent conviction rule is another obstacle that prevents people from getting better jobs and feeling good about themselves.

I spoke to an attorney recently that told me he had a case where his client was charged with a felony and the State offered a plea bargain to a misdemeanor with 3 or 4 days in Jail and one year probation. He said his client was not sure it was a good deal. He also said he had a codefendant. I believe neither had any priors and the codefendant was also offered a Plea and reduce it to a misdemeanor but with 5 years' probation and one year in jail. The codefendant took the plea but his client didn't think his was a good deal. I have no idea what he did. Here we have two different prosecutors and two different plea offers. Both caught together and both did the identical crime. If they accept the plea, they would still be able to own a firearm once they finish their sentence unlike people like me that was never given a chance in the first trial.

If either one of these defendants were not offered a Plea and went to trial and were found guilty, they would be precluded from owning a firearm once they get out of jail or prison or finished their sentence. This is an everyday situation. It also happened to a relative of mine. They took a plea to reduce a violent felony to a nonviolent misdemeanor and no jail time but had some probation. They took the plea and after probation, he could still carry a firearm. So this is why most people that have nonviolent convictions should not be precluded or banned from owning a firearm. I have heard Martha Stewart as a good example to this argument, but she also has the money to have as many body guards as she wants.

If they exercised their Constitutional Right to a jury trial and were found guilty it would have banned them from their Constitutional Right to bear arms.

So, If Defendants that had felony charges and certain misdemeanors were never offered a plea bargain to reduce the charge to a nonviolent or minor misdemeanor, there would be thousands if not millions more people in Maryland banned from ever owning a firearm and more. How is this Equal Justice? Most of the ones who were not offered a plea like me to a minor misdemeanor or exercised their constitutional right to a jury trial who had the same or even lesser charges than I had can still own a firearm. All that shows is, it depends on who you are, what prosecutor you have, how much money you have to hire a good attorney and many other factors. That is not Equal Justice! With all the crime now days, you cannot depend on the police to protect you or your family in your own home. That is not only a harsher sentence but a life sentence. The only difference between the people that was offered a plea is they had a different prosecutor and they were having a great day. Does accepting a plea make them

any less dangerous from owing a gun than someone who exercised their constitutional right to a jury trial that had the identical charge or accepted a plea to a lesser charge so they can still own a firearm?

For the life of me, I do not see how exercising your constitutional right to a jury trial can prohibit you from another constitutional right (The Second Amendment) no matter if you are found guilty. Specially a nonviolent conviction.

I am years over retirement age, so these laws and rules do not affect me much anymore but I would like to see them changed for others. They need to lower the age for crimes committed by young kids. They get away with most anything now and will probably continue once an adult but what they are doing need to be stopped and you need to lower the ages. They are a lot smarter than when I was young. They probably know the laws much better and know there is nothing you can do to them until they become adult age.

I would like to move out of Maryland in a few years once my wife can retire. I have been advocating for more expungements, expanding them and better yet, once you complete your sentence it is over. And I have always supported the Second Amendment. That does not mean I support all the shootings and killing but it is not the guns manufactures fault or not having more laws. The fact is, most States as well as Maryland have too many laws. They have laws saying you cannot shoot people for no good reason and they have a retreat rule. You cannot possess a firearm if you are precluded from owing one and you can't rob banks or rob people with a gun or car jack etc. Really, what others laws do you need? I read where they want to be able to sue a gun manufacture if a gun they made is used to kill someone. That is absurd. They followed the law, they sold it to a licensed gun dealer and they followed the laws and the Maryland State Police approves the person. To me they should be suing MSP. They have the final say.

As I said before, I had a carry permit for about 10 years and I never took it out of my pocket even when I was attacked by someone I never saw before. All I was trying to do is keep the guy from scratching my eyes out and biting me which he did a few times and someone else called the police. My coat was ripped up and the officer saw I had a gun but I never pulled it out and used. I showed the officer my permit and he left. I learned he was a bartender at a Pub where I was walking by to the bank when he attacked. I knew the owner of the Pub and told him tell the guy to pay for my coat and that was it. I did not file charges. I rarely went to that pub and knew the owner because of my business. I don't smoke or drink so it was not a place I went. To this day, I have no idea why this guy jumped on me except he had been drinking.

Maryland expungements are not recognized by the F.B. I. like other States. Maryland seems to support low income housing, low income defense attorneys, health benefits, food and food stamps and many other benefits to low income people and illegal aliens residing in Maryland and using my tax dollars to fund this but won't help its legal citizens get back on their feet and live a normal and productive life again.

Thank You

Glenn Rosenberg