

DEAR READERS: Do you have a legal question that has been burning in your mind (but are afraid to ask an attorney...ching...ching)? If so, please send your questions to Debra A. Newby via email (contact information below). Your name will remain confidential. Although every inquiry may not be published, we will publish as many as possible. Finally, this Q & A Legal Column is intended as a community service to discuss general legal principles and does not create an attorney-client relationship.

Q: My son foolishly stole some “stuff” from Target (and got caught)! He is now trying to find a job, but it seems like his petty theft keeps following him. Can we get his criminal record erased? B.L. from Rio Nido

A: Dear B.L: If we could all live our lives like James Thurber, the cartoonist... guiding our pencil marks to create images that bring laughter...and when we make a mistake, simple erase! Actually, clearing a criminal record does have some complications, but most can be hurdled.

How old is your son? If he was under 18 when he was convicted of the petty theft, then on his 18th birthday, you can petition the Juvenile Court and ask that his juvenile record be “sealed”. Contrary to myth, juvi records are not automatically sealed...you have to request it from the juvenile court clerk. Once sealed, the records are destroyed after five years.

If your son was over 18 when his sticky fingers roamed the Target aisles, then he may be eligible for an “expungement”. If the judge grants the expungement, then his record will reflect that the charge is “dismissed”. As a practical matter, he may still have to explain the lack of judgment during an employment interview, but at least he can reveal that the charge was dismissed (plus he can legally answer “no” on the employment application if a **private** employer asks if he has ever been convicted of a crime).

Not every crime can be expunged. For example, lewd acts with minors and other sex crimes cannot be cleared. Also, in order for the charge to be expunged it must be a misdemeanor or a “wobbler” (meaning that it may be serious enough to be a felony, but is on the edge between a felony and a misdemeanor). Misdemeanors are typically crimes that involve a fine and/or time, if any, in **county jail**. If the sentence results in being sent to prison, it is a good bet that it is a felony (but may still be eligible for expungement if it is a wobbler).

Confused? The best course is to go to the county where your son was convicted and get a copy of his court minutes or court record, which will clearly reveal the charges. It is also important that any fines be paid, and that your son has successfully completed any probation, if it was ordered. If the crime is a misdemeanor (or a wobbler) and all the fines and terms have been completed, then he can file a motion to expunge the record.

Practical tips: 1) If your son was represented by a Public Defender, you can always contact the PD Office and ask if they can file the motion to expunge. It will take a bit longer, but at least you save attorney fees; and 2) another low-cost alternative and

community resource is Legal Aid of Sonoma County. Once a month (typically the first Wednesday) they conduct an expungement workshop in their Santa Rosa office for a minimal fee (\$10—no one is turned away) to answer questions about clearing up criminal records. Call 707-542-1290 for details.

Good luck to you and your son. Life is too short to dodge our shadows. Have him stand tall, move forward, and learn from his mistakes. Erasers are available, if needed.

Debra A. Newby is a resident of Monte Rio and has practiced law for 24 years. She is a member of the California, Texas and Sonoma County Bar Associations and currently maintains an active law office in historic Railroad Square in Santa Rosa. Her law practice emphasizes personal injury law (bicycle/motorcycle/motor vehicle accidents, dog bites, trip and falls, etc.) and expungements (clearing criminal records). Debra can be reached via email (debra@newbylawoffice.com), phone (707-526-7200), fax (526-7202) or pony express (10 Fourth Street, Ste 212, Santa Rosa, 95401).