



SOUTHERN
COALITION
for SOCIAL JUSTICE

UMAR MUHAMMAD CLEAN SLATE TOOLKIT



TABLE OF CONTENTS

3

Introduction

4

Glossary

5

What do I need to have in order to get rid of the charges on my record?

6

What should I do first?

10

How to expunge dismissals, not guilty verdicts, and deferred dispositions

13

Expunge convictions

20

How expungements can be more accessible to people of color and economically vulnerable communities

26

Forms & related links

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INTRODUCTION

THE INFORMATION IN THIS TOOLKIT APPLIES TO THE NORTH CAROLINA ADMINISTRATIVE OFFICE OF THE COURTS.

If a case was in a superior court, you need to find a superior court judge to sign an expungement form. You may need to contact the clerk for information on contacting a judge. Cases start in district court.



UMAR MUHAMMAD was an upbeat, passionate advocate who committed his life to helping people of color who were impacted by the criminal justice system.

He joined Southern Coalition for Social Justice (SCSJ) in 2014, where he fought against the discrimination of justice-involved individuals. He was a community organizer and leader in All of Us or None, an organization that lifts up the voices of those most affected by mass incarceration and the prison-industrial complex.

Through SCSJ and All of Us or None, Umar helped organize numerous Clean Slate Clinics that served over 60 counties throughout North Carolina. These clinics supported individuals working to address the collateral consequences of having a criminal record, including barriers to employment, housing, and occupational licenses.

The purpose of this toolkit is to empower people with a step-by-step guide to remove charges and convictions from their criminal record so they may economically and socially better their lives. We dedicate this toolkit to Umar, who opened every Clean Slate Clinic by stating, **“You are not the sum of your worst mistakes.”**

GLOSSARY

AFFIDAVITS

A paper that is signed in front of a Notary Public (Google to find one in your area) that is a statement verifying the information provided is true.

CONVICTIONS

Charges that resulted in a guilty plea, the judge found you guilty or a jury returned guilty verdict.

CR

Criminal District Court Case Number [Example - "20 CR 111" may be your case number]

CRS

Criminal Superior Court Case Number. Cases may begin in District Court and transfer to Superior Court based on severity. The case number is given an added "S" if it is moved to Superior Court. [Example - "20 CRS 111" may be your case number]

DEFERRED DISPOSITION

Deferred Dispositions are when an individual has to complete some type of action, like community service, to have the case dismissed. This will appear on your record as a DD.

DISMISSALS

Dismissals include charges that resulted in a not guilty decision (NG). The judge or the Assistant District Attorney can dismiss the charges. This will show on your record as a VD.

EXPUNCTION

It is considered an expunction of the record when your charges have actually been removed from your criminal record.

EXPUNCTION ORDER

The expunction order is the formal paperwork signed by the judge granting the expungement.

EXPUNGEMENT

The process to remove eligible charges from your record is referred to as expungement.

FELONY

Considered a severe act and the person may be sentenced to longer periods in a local jails or state prison.

INFRACTION

An offense that does not require jail time and is normally handled by payment of a fine.

MISDEMEANOR

This is an act that is less serious than a felony, but more serious than an infraction. A person may be sentenced to time in a local jail and/or payment of a fine for misdemeanors.

PETITION

A petition is the paper that is given to the clerk of court to start the expungement process.

RECORD

A criminal record is a list of Felony and Misdemeanor convictions and/or dismissals that show up during a record search.

RECORD SEARCH

The process in which a person finds out what charges are listed on a person's criminal record record.

WHAT DO I NEED TO HAVE IN ORDER TO GET RID OF THE CHARGES ON MY RECORD?



ACCESS TO TRANSPORTATION



RELIABLE ADDRESS



PERSONAL CONTACTS WHO ARE NOT RELATED TO YOU AND WHO WILL SPEAK POSITIVELY OF YOU



INTERNET



TELEPHONE

WHAT DO I NEED TO HAVE IN ORDER TO GET RID OF THE CHARGES ON MY RECORD?

- Access to transportation
- A reliable address
- Personal contacts who can speak well of you and who are not related to you
- Access to the internet
- Access to a telephone
- Depending on the situation, up to \$200

WHAT SHOULD I DO FIRST?

STEP 1

Request a statewide records search.

First, you need to find out what charges are on your statewide criminal record. To do this, you will need to go to a sheriff's office or local public agency and request a statewide records search.

Prices for statewide searches vary from \$25.00 to \$100.00 depending on the location. Individual counties typically charge \$25.00 for a county search, but you need to know what is on your statewide record to figure out if you are eligible to have any charges removed/expunged. So be sure to request a statewide criminal record search, not just a county record search.

STEP 2

Did my charges lead to convictions or dismissals, and can my convictions be expunged?

Charges that are dismissed can be removed as long as you do not have a felony on your record. If you have a conviction for one nonviolent misdemeanor OR a nonviolent felony, you can get it expunged. If you have convictions for more than one nonviolent misdemeanor or felony, you cannot get the convictions expunged.

MISDEMEANORS & FELONIES

MISDEMEANORS

Class A1 Misdemeanors cannot be expunged. All other misdemeanors can be expunged. Common Class A1 Misdemeanors include: Assault on a female, Assault on a company police officer, first degree trespass, and violation of a protective order to name a few.

FELONIES

Class H or I Felonies can be expunged only if the person only has 1 felony conviction and no misdemeanor convictions. Common Class H and I Felonies include: Embezzlement and Credit Card Fraud.



CHANGES TO EXPUNGEMENT LAW THAT TAKE EFFECT ON DECEMBER 1, 2020

If you have a conviction for one nonviolent misdemeanor, you have to wait 5 years after you have completed all terms of the sentence before getting the conviction expunged, including probation and payment of all fines and fees.

If you have convictions for more than one nonviolent misdemeanor, you have to wait 7 years after you have completed all terms of the last conviction before getting the conviction expunged, including probation and payment of all fines and fees.

CHANGES TO EXPUNGEMENT LAW THAT TAKE EFFECT ON DECEMBER 1, 2021

Law effective December 1, 2021- All dismissals fitting the description below will be automatically dismissed by the Administrative Office of the Courts. The dismissal will automatically be expunged on or after December 1, 2021 if:

All charges in the case are disposed of on or after December 1, 2021; AND

All charges in the case are dismissed without leave, dismissed by the court, or result in a finding of not guilty or not responsible.

Caveat: If a charge was dismissed pursuant to a plea agreement, the original charge will not automatically be expunged.

A person who committed any misdemeanor or Class H or I felony before December 1, 2019 while they were between the ages of 16 and 18 years old may file a petition for expungement.

STEP 3

Check to see how long ago the charges appeared on your record

This step is important because there is a timeframe that must pass before you can request an expunction.

MISDEMEANORS & FELONIES

MISDEMEANORS

You have to wait at least 5 years after you have completed all terms of sentence, including probation and payment of all fines and fees.

FELONIES

You have to wait 10 years after the date of a completed Felony sentence.

YOU MUST HAVE COMPLETED ALL REQUIREMENTS OF THE SENTENCE. THIS INCLUDES: Probation, Fines, and Completion of Incarceration

STEP 4

Contact each county where you have a charge on your statewide record

You will need to contact each county where you have a charge on your statewide record.


STEP 5

Determine if your out-of-state conviction will prevent you from expunging your north carolina record

For example, if a person has 1 out of state felony conviction and 1 North Carolina felony conviction, the out of state conviction will prohibit the expunction of the North Carolina felony conviction even if the requisite time requirements and other factors have been met.

EQUALITY FOR ALL





HOW TO EXPUNGE DISMISSALS, NOT GUILTY VERDICTS, AND DEFERRED DISPOSITIONS

DO I HAVE TO PAY ANY MONEY WHEN TURNING IN THE FORM TO A COUNTY COURTHOUSE?

FOR DISMISSALS

There is no fee for dismissals and not guilty judgements.

FOR DEFERRED DISPOSITIONS

There is a \$175 fee for deferred dispositions. **Note:** However, this fee can be waived by completing and submitting an “Affidavit” of Indigence and a **Petition to Sue as Indigent** (See Forms section).

STEP 1

Print and fill out expunction form for dismissed charges (Form AOC-CR-287)

Go to bit.ly/OrderofExpunction to print and fill out the Expunction For Dismissed Charges Form (form number AOC-CR-287).

STEP 2

Take the form to the “clerk” of county court in the county where the charges were filed

Take your Expunction For Dismissed Charges Form (form number AOC-CR-287) to the “clerk” of county court in the county where the charges were filed. For example, if the charges were filed in Durham County, you should take the form to the clerk at the Durham County Courthouse.

STEP 3

Find out when the expunction form has been sent back to the clerk

It is your responsibility to find out when the Expunction For Dismissed Charges Form (form number AOC-CR-287) has been sent back to the clerk and to ask the clerk or district attorney to schedule the hearing.

Here is an example of what you can say to the clerk when you check to see if your petition has returned to the courthouse: “My name is John Smith and my file number is XX CR XXXX. Has my petition for expunction returned from SBI? If so, I would like to schedule a hearing with a judge.”



CAUTION

Some clerks will make people find a judge to sign the form before they will “file stamp.” File stamp is when the clerk accepts the form into the office and places a date and time on the form. After a judge signs the form, the clerk will send it to the North Carolina State Bureau of Investigations. The State Bureau of Investigations will complete the Criminal History Record Information and then send it to the North Carolina Administrative Office of the Courts. The Administrative Office of the Courts will complete the record and mail it back to the clerk in the county where the expunction is pending. The clerk will then give the sealed envelope to the court, and a judge will open the sealed envelope when the application to remove the charge from the record is heard in court.

FILED		PETITION AND ORDER OF EXPUNCTION UNDER G.S. 15A-146(a) AND G.S. 15A-146(a1) (CHARGE(S) DISMISSED)	
2019 JUL 23		G.S. 15A-146, 15A-150	
Name And Address Of Petitioner's Attorney For Expunction Petition		L. Cheryl Cherry-Lee Clean Slate Project	
Southern Coalition for Social Justice Fax: 919-323-3942		1415 W. NC Hwy 54, Ste. 101 Phone: 919-323-3380	
Durham, NC 27707			



Image of what a file stamp looks like

If an order of expunction is entered, the clerk makes copies of the order, stamps “Certification By Clerk” on each copy, and sends certified copies to the you, the State Bureau of Investigation, the Department of Public Safety, the Division of Motor Vehicles, the Administrative Office of the Courts, the arresting law enforcement agency and any other state or local government agency identified on the petition.

IF YOUR ADDRESS CHANGES:

The clerk of superior court will mail you a certified copy of the final order. If you move to a different address, you must tell the clerk in writing about your change of address in order to receive a certified copy.

IF YOUR CONTACT INFORMATION CHANGES:

You must update the clerk office with any changes to your contact information.

After the case is expunged, the clerk will have no record of the case and will not be able to provide you with any documentation from the case. This includes the expunction order. The expungement order will be destroyed with all other documents from the case.

If your expungement is denied, the clerk will keep the original of the petition, but any information from the State Bureau of Investigations or Administrative Office of the Courts will be destroyed, unless the court orders otherwise.



EXPUNGE CONVICTIONS

STEPS TO EXPUNGING CONVICTIONS

FOLLOW THESE STEPS TO EXPUNGE CONVICTIONS IF:

Your record has only 1 conviction or has multiple convictions that are all based on the same court verdict (for example, you have guilty verdicts on the same court date and no other convictions);

AND The charge is in a class that qualifies for expungement. (See class chart)

You cannot expunge Class A1 misdemeanors or felonies Class H or higher. For example, Assault on a Female is a Class A1 misdemeanor. A Simple Assault is a Class 2 misdemeanor, but is considered an act of violence and does not qualify

for an expungement. A Class G felony would not be expungeable. Trafficking cocaine is a class G Felony, therefore this charge does not qualify for an expungement.

WHAT DO I NEED TO HAVE IN ORDER TO GET RID OF THE CHARGES ON MY RECORD?

- ☐ Access to transportation
- ☐ A reliable address
- ☐ Personal contacts who can speak well of you and who are not related to you
- ☐ Access to the internet
- ☐ Access to a telephone
- ☐ Depending on the situation, up to \$250.00

STEP 1

Print and fill out all parts of the nonviolent felony or nonviolent misdemeanor form (Form AOC-CR-281)

The Nonviolent Felony or Nonviolent Misdemeanor Form (form number AOC-CR-281) can be found at bit.ly/NonviolentForm. When you submit this form, you will need affidavits from people who can speak about how your behavior has improved and state that you have become a productive member of society.

STEP 2

Find two people willing to sign affidavits of good character

The two people must meet these requirements:

- ☐ They cannot be related to you by blood or marriage
- ☐ They cannot be related to each other by blood or marriage
- ☐ They must sign in front of a notary

Example: A neighbor who is not related to you may complete an affidavit. A coworker who is not related to you can also complete an affidavit. The neighbor and coworker also have to be unrelated to each other. Both the neighbor and coworker must sign the affidavits in front of a notary in order to meet the filing requirements.

STEP 3

Fill out a defendant's affidavit of good character

You must turn in the affidavits when you take the Nonviolent Felony or Nonviolent Misdemeanor Form (form number AOC-CR-281) to the clerk of the court.



STEP 4

Find a notary and sign the document in front of the notary to get form notarized

Notaries can be found at your local bank free of charge if you have an account. You can also get the form notarized at the county clerk offices, which normally costs between \$5.00 - \$10.00.

STEP 5

Get a judge to sign your expungement form

STEPS TO FINDING A JUDGE

If a case was in a superior court, you need to find a superior court judge to sign an expungement form. You may need to contact the clerk for information on contacting a judge. Cases start in district court.

If a case was in a district court, you will need to find a district court judge to sign the expungement form. Contact the clerk for judge contact information. Sometimes the judge may be holding a session of court. If your case number has a "CRS," it was transferred to superior court. See Glossary section for terms and explanations.





CHECKLIST FOR TURNING IN FORMS TO THE CLERK:

- ☐ Signed and notarized defendant's affidavit of good character. 2 signed and notarized affidavits from people who can speak to your good character.
- ☐ Nonviolent Felony or Nonviolent Misdemeanor Form (form number AOC-CR-281) signed by a judge.
- ☐ \$175 Filing fee or petitions to file as indigent (see in attached document list)

STEP 6

Turn in defendant's affidavit of good character, the two character affidavits and the expungement form to the clerk of court where you were charged

This is everything you should turn into the Clerk of Court:

- ☐ Nonviolent Felony or Nonviolent Misdemeanor Form (form number AOC-CR-281) filled out and signed by a judge
- ☐ 2 affidavits of good character from unrelated persons
- ☐ Defendant's affidavit of good character
- ☐ \$175 Filing fee or petitions to file as indigent (see Forms section)

I TURNED ALL THE FORMS IN TO THE CLERK. NOW WHAT?

Once a judge signs the form, the clerk sends the form to the NC State Bureau of Investigations. This can take anywhere between 6- 12 months. The clerk of court is the best person to contact to determine if the form has been returned to the clerk office.

The State Bureau of Investigations will complete the Criminal History Record Information and forward it to the Administrative Office of the Courts. The Administrative Office of the Courts will complete the record and mail it to the clerk in the county where you filed for an expungement.

The clerk will then give the sealed envelope to the court, and a judge will open the sealed envelope when the application to remove the charge from the record is heard in court.

CAUTION

It is your responsibility to find out when the expungement form has been sent back to the clerk and to ask the clerk or district attorney to schedule the petition for a hearing.

If an order of expunction is entered, the clerk makes copies of the order, stamps "Certification By Clerk" on each copy, and sends certified copies to you, the State Bureau of Investigation, the Department of Public Safety, the Division of Motor Vehicles, the Administrative Office of the Courts, the



CERTIFICATION BY CLERK

I hereby certify that this form is a true and complete copy of the original in this case, and if granted, a certified copy of this Order was sent on the date shown below to the petitioner, the State Bureau of Investigation, the Department of Public Safety, the Division of Motor Vehicles, and to the arresting agency and any other State or local government agency identified on Side One and on any attachment to this petition.

Date: 7/14/20 Name of Petitioner: E. R. Tucker Signature of Clerk: [Signature] Dep. CSC: [] Seal: []

NOTE TO CLERK: If granted, always send a certified copy of this Order under seal to the petitioner, to all the agencies listed in Certification By Clerk above, and to the NCADOC. Send copies for the arresting agency and additional agencies to the addresses provided by the petitioner. Send: SBI, DPS, DMV, and NCADOC copies to:

State Bureau of Investigation PO Box 26500 Raleigh, NC 27626	NC Department of Public Safety Attn: Expunction Unit 4226 Mail Service Center Raleigh, NC 27699-4226	NC Division of Motor Vehicles, Driver and Vehicle Services, Driver Assistance Branch Attn: Hearings/Adjudication Unit 3118 Mail Service Center Raleigh, NC 27699-3118	NC Administrative Office of the Courts Court Services Attn: Records Officer PO Box 2646 Raleigh, NC 27602
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NOTE TO PETITIONER: If this petition is granted, the clerk of superior court will send you a certified copy of the final order for your records at the address listed on Side One. If you move, you must notify the clerk in writing of your change of address in order to receive a certified copy. After the case is expunged, the clerk of superior court will have no record of the case and will be unable to provide you with any documentation of the case. This includes the expunction order; it will be destroyed with the case file.



Image of what a certified copy looks like

arresting law enforcement agency and any other state or local government agency identified on the petition.

The clerk will keep the original order of expunction to dispose of it with the rest of the documents in this case file.


IF YOUR ADDRESS CHANGES:

The clerk of superior court will send you a certified copy of the final order. If you move, you must tell the clerk in writing about your change of address in order to receive a certified copy. After the conviction is expunged, the clerk will have no record of the case and will not be able to provide documentation from the case. This includes the expunction order. The expungement order will be destroyed with all other documents from the case.

IF YOUR CONTACT INFORMATION CHANGES:

You must update the clerk office with any changes to your contact information. This is so they know how to contact you if your form comes back to the court or in case the judge has any questions during the process. Changing your address or contact information will not affect your ability to remove something from your record.

If your expungement is denied, the clerk will keep the original of the petition, but any information from the State Bureau of Investigations or Administrative Office of the Courts will be destroyed, unless the court orders otherwise.




GREAT! MY CONVICTION HAS BEEN EXPUNGED. HOW DOES THIS AFFECT ME GOING FORWARD?

Once the file is destroyed, employers and landlords will not see your information on the state system. This can make it easier to get a job or find a home. This will also allow you to volunteer at certain places, like your child's school.

WHAT IF MY PETITION IS DENIED?

You must update the clerk office with any changes to your contact information. If the petition is denied, the clerk will retain the original of the denied petition, but any information from the State Bureau of Investigations or the Administrative Office of the Courts will be destroyed, unless the court orders otherwise.



*None of us are free
until all of us are free*

HOW EXPUNGEMENTS CAN BE MORE ACCESSIBLE TO PEOPLE OF COLOR AND ECONOMICALLY VULNERABLE PEOPLE

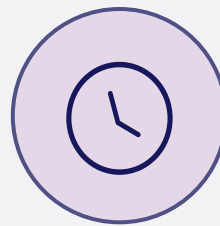
HOW EXPUNGEMENTS CAN BE MORE ACCESSIBLE?



FREE
NOTARIES



COUNTY COURT
EXPUNGEMENT
ADVOCATE



EXPEDITE
PROCESS



ONLINE FILING
OPTIONS

ONE

Pending charges and dismissals should be excluded from an individual's criminal record.

Currently, pending charges and dismissals still appear in a background check even if a person is found not guilty or the charges were dismissed. This means an employer will see that an applicant has been charged with an offense for which they were never found guilty and this may negatively impact the employer's view of the applicant.

TWO

Individuals should be able to expunge all misdemeanors, including misdemeanor assault charges.

Currently, a Simple Assault charge or a Simple Affray is considered a violent offense and cannot be expunged. For example, if a high school student in 12th grade is attacked by another student and forced to defend themselves, both students might be charged with misdemeanors. This is damaging because if the students are 18 years of age and found guilty, this charge will remain on their record. If either student attempts to get a job when they are 25 years old, this assault will continue to damage their employment opportunities. Currently, the following Class 1 misdemeanors cannot be expunged: Assault, Assault and Battery, or Simple Affray against a sport official. Go to bit.ly/MisdemeanorList for more information.

THREE

Community members need access to judges, district attorneys and clerks to have papers signed.

Several structural issues create barriers to people being able to obtain signatures from these individuals, who often require an appointment before meeting with anyone. The district attorney's office may not have a direct contact person who is familiar with expungements. The judges are available during court proceedings, but this requires people to know what judge is currently presiding on the bench and when it is appropriate to approach the bench and ask for a signature. One solution to this problem is having regular office hours for people who need forms signed by judges, district attorneys and clerks. Courthouses should also assign specific expungement days. For example, some counties currently facilitate administrative days for traffic offenses, during which the district attorney and clerks are available to the public and their attorneys. The same can be done for expungements.

FOUR

Community members also need access to free notaries.

Notaries may be difficult to find because if you do not have proper state identification you will not be able to get the forms notarized. Many local banks will notarize for their account holders. However, if you do not have any accounts with a bank, this option is also unavailable. Notary publics may also charge as much as \$5.00 per page which can total over \$20.00 for an expungement. This adds to an already expensive expungement process. Free public notaries will allow individuals, who may still be looking for employment, access to notary services without increasing the economic burden of people trying to clear their record.



FIVE

Each county court should assign at least one expungement advocate to assist in the expungement process.

These professionals could be paid by the county court or obtained by offering other incentives – like CLE credits for attorneys.

SIX

The State Bureau of Investigations should mail the form back to the person who is trying to clear their record, and this person should be allowed to take the form back to the clerk.

This will immediately let the individual know when to return the form to the clerk and provides them with greater control over the expungement process.

SEVEN

The 6-12 month process is far too long.

For many people, obtaining gainful employment is contingent on their ability to clear their record. There are multiple ways to speed up the process while maintaining the confidentiality and security of the court. As mentioned earlier, if the court administration would designate one day to process expungements, people would not have to wait months for a court date. The process of contacting a district attorney, clerk and judge should also be simplified. Once the forms are sent to the State Bureau of Investigations and are returned to the clerks' office, there should be another automated system to allow the person to schedule a time to present the forms to a judge for approval.

EIGHT

Courts should create ways to complete and file expungement forms with the clerk online.

Additionally, clerks should be allowed to securely email the files to the appropriate agencies, and allow those agencies to both physically mail and securely email the forms back to the individual and the clerk.

NINE

Courts should eliminate all costs associated with expungements.

The \$175 fee can be waived if the indigency forms are properly completed, and most indigency requests are approved. The indigency forms also require a notary public, which can be a costly and time consuming task. Courts should remove this unnecessary and costly step by making the expungement process free.

TEN

Another economic barrier to expungement is unpaid fines and fees that are required by the original sentence.

Courts should waive the requirement to have all fines and fees paid, especially because having a criminal record may be keeping the individual from earning the income necessary to pay the fines and fees.





FORMS & RELATED LINKS

GENERAL INFORMATION ABOUT EXPUNCTIONS

bit.ly/ExpunctionInfo

EXPUNCTION FORM FOR DISMISSED CHARGES

bit.ly/DismissedChargesForm

EXPUNCTION FORM FOR NON-VIOLENT CHARGES

bit.ly/NonviolentFormPDF

EXPUNCTION FORM FOR NON-TRAFFIC MISDEMEANOR UNDER 18 OR POSSESSION OF ALCOHOL UNDER 21

bit.ly/MisdemeanorPossessionForm

AFFIDAVIT OF CHARACTER (FOR JUVENILE EXPUNCTIONS)

bit.ly/CharacterAffidavitJuvenile

AFFIDAVIT OF INDIGENCY FORM

bit.ly/IndigencyAffidavit

PETITION TO PROCEED AS INDIGENT

bit.ly/IndigentPetition



BLACK
LIVES MATTER

