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DISTRICT II

January 29, 2025

To:

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Circuit Court Judge
Electronic Notice

Susan C. Lund
Electronic Notice

Anna Hodges
Clerk of Circuit Court
Milwaukee County Appeals Processing
Division
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Anthony Russomanno
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Sheila Sullivan
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You are hereby notified that the Court has entered the following opinion and order:

2023AP1435

Briana Beal v. Wisconsin Department of Justice
(L.C. #2022CV7783)

Before Gundrum, P.J., Neubauer and Grogan, JJ.

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

The Wisconsin Department of Justice (DOJ) appeals from an order reversing its decision to deny Briana Beal's challenge to her criminal history report. Based upon our review of the briefs and Record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2021-22).¹ We affirm and remand with directions.

¹ All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

In 2018, Beal pled guilty to felony theft of movable property. The circuit court imposed but stayed a sentence in favor of probation. It then authorized expungement of the case upon the successful completion of probation.

Beal successfully completed probation in her case. Accordingly, on September 9, 2022, the circuit court ordered the case expunged. The expungement was notated in Beal's criminal history report as follows: "CCAP Disposition – Court Case has been expunged from official court record."

Believing that this expungement notation was misleading,² Beal filed a challenge with the DOJ, which is the state agency tasked with creating and disseminating criminal history reports. Ultimately, the DOJ denied Beal's challenge, determining that its notation was proper. Beal then petitioned the circuit court for judicial review of the DOJ's decision under WIS. STAT. § 227.52.

The circuit court reversed the DOJ's decision, but not on the merits of Beal's challenge. Rather, the court interpreted WIS. STAT. § 19.70³ as allowing Beal to add a "concise statement"

² The expungement notation appears in the middle of Beal's criminal history report and does not include the date of the expungement order.

³ WISCONSIN STAT. § 19.70 provides in relevant part:

- (1) Except as provided under sub. (2), an individual or person authorized by the individual may challenge the accuracy of a record containing personally identifiable information pertaining to the individual that is maintained by an authority if the individual is authorized to inspect the record under s. 19.35(1)(a) or (am) and the individual notifies the authority, in writing, of the challenge. After receiving the notice, the authority shall do one of the following:
 - (a) Concur with the challenge and correct the information.

(continued)

to her criminal history report, setting forth the reasons for her disagreement with the disputed part of the record. This appeal follows.

When an agency’s decision is challenged in the circuit court under WIS. STAT. § 227.52, we review the decision of the agency, not that of the circuit court. *Wisconsin Indus. Energy Grp., Inc. v. Public Serv. Comm’n*, 2012 WI 89, ¶14, 342 Wis. 2d 576, 819 N.W.2d 240. We accord no deference to the agency’s interpretation of law. Section 227.57(11).

On appeal, the DOJ insists that its expungement notation was proper. It asks that we reverse the circuit court’s decision as it relates to WIS. STAT. § 19.70 and the proposed addition of Beal’s “concise statement” to her criminal history report. According to the DOJ, there is no room in criminal history reports for such subjective statements.

We need not address whether Beal is entitled to add a “concise statement” to her criminal history report. That is because we determine, as a matter of law, that the DOJ’s expungement notation is inaccurate and in need of correction. Again, the notation reads, “CCAP Disposition – Court Case has been expunged from official court record.” This language improperly suggests that the expungement was the result of CCAP and not a court order.

Accordingly, we affirm the circuit court order to reverse the DOJ’s decision, albeit on different grounds. On remand, the DOJ shall correct its expungement notation to reflect that the

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- (b) Deny the challenge, notify the individual or person authorized by the individual of the denial and allow the individual or person authorized by the individual to file a concise statement setting forth the reasons for the individual’s disagreement with the disputed portion of the record. A state authority that denies a challenge shall also notify the individual or person authorized by the individual of the reasons for the denial.

expungement of Beal's criminal case was the result of a circuit court order entered on September 9, 2022.

Upon the foregoing reasons,

IT IS ORDERED that the order of the circuit court is summarily affirmed and remanded with directions. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Samuel A. Christensen
Clerk of Court of Appeals