

City of DEKALB

Established 1856

LEGAL DEPARTMENT

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September 14, 2007

Mr. Scott Reeder
Bureau Chief
Small Newspaper Group
Press Room – Capitol Building
Springfield, IL 62706

RE: Freedom of Information Act Request

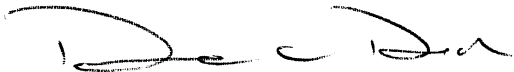
Dear Mr. Reeder:

This is written in response to your Freedom of Information Act request date August 24, 2007. I apologize for the delay. Please be advised that your request is being denied pursuant to Section 140/7(1)(a) of the Illinois Freedom of Information Act, 5 ILCS 140/7(1)(a), which provides that information specifically prohibited from disclosure by federal or State law or rules and regulations adopted under federal or State law is exempt from inspection and copying. The records you are requesting have been expunged pursuant to a court order.

Appeal Right: Pursuant to law you are entitled to appeal the decision denying your request for certain records. You may appeal by providing a written notice to the police department within seven (7) working days. Upon receipt of any such notice, the City Manager shall review the records and determine whether the decision to deny was correct. You will be notified of the City Manager's decision within seven (7) working days of the receipt of the notice of appeal.

Should you have any questions, please do not hesitate to contact the undersigned at (815) 748-2093.

Very truly yours,



Dawn C. Didier
Assistant City Attorney

Daily Chronicle ONLINE

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Updated: Oct 19, 2002 - 12:00:00 am CDT

DHS coach charged with indecent exposure

By Dan Campana and Chris Rickert - Chronicle Staff

DeKALB -- The DeKalb High School girls' varsity swim coach has been suspended with pay by the school district after being charged Wednesday with public indecency.

According to police, Thomas E. O'Brien Jr., 43, was reported by a passerby to be standing nude in his garage in the 700 block of West Hillcrest Drive just before 5:30 p.m. Wednesday.

Public indecency, a Class A misdemeanor, is described as "a lewd exposure of the body done with intent to arouse or to satisfy the sexual desire of the person." It is punishable by up to one year in jail.

O'Brien was released Wednesday night after posting \$100 bond.

Reached Thursday night at his home, O'Brien said he would not comment on the incident without first speaking with a lawyer. A phone message left at his home this morning was not returned by press time.

Superintendent Brian Ali said Thursday that he learned of O'Brien's arrest Wednesday night from police.

O'Brien was suspended with pay Thursday morning, said Ali, who declined to comment on the alleged incident.

"All I can say at this point ... is it's under investigation," Ali said. He said the district was waiting for the completion of the police department's investigation.

O'Brien has been employed by the district for 17 years, according to Assistant Superintendent for Human Resources Jed Dunbar, during which he has had a clean disciplinary record.

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VIA FACSIMILE ONLY

September 25, 2007

Mr. Scott Reeder
Bureau Chief
Small Newspaper Group
Press Room - Capitol Building
Springfield, IL 62706

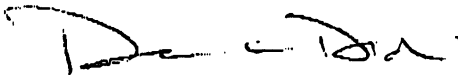
RE: Freedom of Information Act Request

Dear Mr. Reeder:

Pursuant to your follow-up request sent via e-mail on September 18, 2007, enclosed please find the order of expungement that was entered relating to Mr. O'Brien's matter.

Should you have any questions, please do not hesitate to contact the undersigned at (815) 748-2093.

Very truly yours,



Dawn C. Didier
Assistant City Attorney

Enclosures

IN THE CIRCUIT COURT OF THE SIXTEENTH JUDICIAL CIRCUIT
DEKALB COUNTY, ILLINOIS

FILED
IN OPEN COURT

MAR 21 2007

Maureen A. Josh
Clerk of the Circuit Clerk
DeKalb County, Illinois

THE PEOPLE OF THE STATE OF ILLINOIS)
OR)
 A MUNICIPAL CORPORATION,)
vs.)
THOMAS O'BRIEN)
Defendant/Petitioner.)

CASE NO. 02 CM 1625

ORDER TO EXPUNGE AND SEAL

Charge: <u>Public Indecency</u>	Date of Arrest: <u>October 16, 2002</u>
Arresting Authority: <u>DeKalb Police Department</u>	
ID No: _____	
Date of Birth: <u>12/3/58</u> Sex: <u>M</u>	Race: <u>Caucasian</u>
Return Records to: <u>Attorney Gary V. Johnson</u> (Name of Defendant/Petitioner) <u>546 W. Galena Boulevard</u> (Street) <u>Aurora, IL 60506</u> (City) (State) (ZIP Code)	

THIS CAUSE comes before the Court on the Defendant/Petitioner's Petition to Expunge and Seal. The Court being fully advised, FINDS:

1. The Defendant/Petitioner has complied with the provision of 20 ILCS 2630/5.
2. The Defendant/Petitioner has not previously nor subsequently been convicted of any criminal offense or any municipal ordinance violation and there are no criminal charges pending against Defendant/Petitioner at the present time.
3. The Defendant/Petitioner was arrested by the Arresting Authority on the date and for the offense stated above.

A true copy of the original on file in my office
 Attested to this 21 day of March 2007
 MAUREEN A. JOSH
 Clerk of the Circuit Clerk
 16th Judicial Circuit
 DeKalb County, Illinois
 By Maureen A. Josh
 Circuit Clerk

4. The Defendant/Petitioner was acquitted or released without being convicted; OR
- The Defendant/Petitioner was released without conviction following a sentence of supervision, for the offense of:
- 625 ILCS 5/3-707 Operating an Uninsured Motor Vehicle*, or
 - 625 ILCS 5/3-708 Suspended Registration for Noninsurance*, or
 - 625 ILCS 5/3-710 Displaying of False Insurance*, or
 - 625 ILCS 5/401.3 Failure of Scrap Dealer to Keep Records*, or
 - 625 ILCS 5/11-503 Reckless Driving*, or
 - 720 ILCS 5/12-3.2 Domestic Battery*, or
 - 720 ILCS 5/12-15 Criminal Sexual Abuse*, or
 - 720 ILCS 5/16A-3 Retail Theft*;
- and it has been FIVE years since the successful discharge and dismissal from supervision; OR
- The Defendant/Petitioner was released without conviction following a sentence of probation for the offense of:
- 720 ILCS 550/10 Section 10 of the Cannabis Control Act, or
 - 720 ILCS 570/410 Section 410 of the Illinois Controlled Substance Act, or
 - 720 ILCS 5/12-4.3 (if charged before January 1, 1996) Section 12-4.3(b)(1) and (2) of the Criminal Code of 1961 (Aggravated Battery of a Child, as those provision existed before their deletion by Public Act 89-313), or
 - 20 ILCS 301/40-10 Section 40-10 of the Illinois Alcoholism and Other Drug Dependency Act when the judgment of conviction has been vacated
- and it has been FIVE years since the successful termination of probation; OR
- The Defendant/Petitioner was released without conviction following a sentence of supervision for an offense which is not set forth in the previous paragraphs, and it has been TWO years since the successful discharge and dismissal from supervision.
5. The Defendant/Petitioner was not granted supervision for or conviction of (1) driving under the influence; or (2) any sexual offense committed against a minor under 18 years of age as a result of this arrest. Sexual offense committed against a minor includes but is not limited to the offense of indecent solicitation of a child or criminal sexual abuse when the victim of such offense is under 18 years of age.
6. The Defendant/Petitioner has paid all fines, costs, fees and restitution in the underlying case.

7. The Defendant/Petitioner has paid all costs and fees for the filing of this Petition.
8. The Defendant/Petitioner has served notice on the Arresting Authority, the Department of the State Police (in an offense required to be reported to the Department), the State's Attorney and the Chief Legal Officer of the unit of local government affecting the arrest, and that none of said agencies have filed an objection to the Petition to Expunge and Seal within 30 days from the date of Notice.


IT IS THEREFORE ORDERED as follows:

- A. That the Petition to Expunge and Seal the Defendant's arrest record is granted, and the official records be expunged or sealed as follows:
 1. The Clerk of the Circuit Court **SHALL SEAL** all records of the Petitioner together with all photographs, fingerprints, and other records of identification taken as a result of the arrest and obliterate the Petitioner's name from the official index required to be kept by the Circuit Clerk under Section 16 of the Clerks of Courts Act.
 2. The Department of State Police **SHALL EXPUNGE** all records of the Petitioner together with all photographs, fingerprints and other records of identification taken as a result of the arrest **UNLESS** the disposition is one enumerated in Paragraph B. That said expunged law enforcement records shall be returned to the Defendant/Petitioner or the Defendant/Petitioner's attorney.
 3. The Arresting Authority **SHALL EXPUNGE** all records of the Petitioner together with all photographs, fingerprints and other records of identification taken as a result of the arrest. That said expunged law enforcement records shall be returned to the Defendant/Petitioner or the Defendant/Petitioner's attorney.
 4. That the Arresting Authority shall request the return of any other law enforcement records relating to the incident set forth in the Petition which have been transferred to the Federal Bureau of Investigation or any other law enforcement agency as a result of said arrest and return them to the Defendant/Petitioner or the Defendant/Petitioner's attorney.
- B. That the Department of the State Police, however, shall not expunge but only **SEAL** those records that result in a disposition of supervision for a violation of Section 3-707, 3-708, 3-710, 5-401.3, or 11-503 of the Illinois Vehicle Code or a similar provision of a local ordinance, or for a violation of Section 12-3.2, 12-15, or 16A-3 of the Criminal Code of 1961, or those records that result in a

disposition of probation under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substance Act, Section 12-4.3(b)(1) and (2) of the Criminal Code of 1961, and Section 40-10 of the Illinois Alcoholism and other Drug Abuse and Dependency Act when the judgment of conviction has been vacated.

- C. That any arrest records SEALED by the Department of the State Police may be disseminated only as required by law or to the Arresting Authority, State's Attorney and Court upon the Defendant/Petitioner's later arrest for the same or similar offense or for the purpose of sentencing for any subsequent felony. Upon conviction, the Department of Corrections shall have access to such sealed records pertaining to Defendant/Petitioner.
- D. That any records SEALED by the Clerk of the Circuit Court shall be inspected only upon order of the court upon good cause shown.

ENTERED: 3-21- _____, 2007.

JUDGE 

*Offenses not reportable to Department of State Police.