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October 17, 2024

VIA ECOURTS

Douglas H. Hurd, P.J.Cv.
Mercer County Civil Courthouse
175 South Broad Street
Floor 3
Trenton, NJ 08650

Re: A.A. v. Callahan, MER-L-002001-23
Status Report and Request for Continuance

Judge Hurd:

The Office of the Public Defender (OPD) represents the named Plaintiffs, and the proposed class of similarly situated individuals whom those Plaintiffs seek to represent, in the above-captioned matter. We write on behalf of all parties to the litigation to provide a status report, as required by the Court's August 19, 2024 Case Management Order.

This lawsuit concerns the backlog of expungement orders that have been received, but not yet processed, by the New Jersey State Police (NJSP). The Plaintiffs allege that the delay in processing expungement orders results in the

NJSP releasing background checks that contain records that a court has ordered to be expunged, thereby causing individuals to be denied jobs and other benefits, or inhibiting those individuals from seeking jobs and benefits lest their expunged records be revealed.

Shortly after Plaintiffs filed suit, Defendant (through his attorneys at Chiesa Shahinian & Giantomasi PC) expressed an interest in discussing a mutually agreeable settlement of the matter. The parties have engaged in several months of settlement discussions. Since February, the parties have been involved in ongoing mediation sessions before the Honorable Jaynee LaVecchia, Retired Associate Justice of the New Jersey Supreme Court.

The mediation has resulted in substantial progress in resolving this dispute, including through the two Interim Consent Orders that Your Honor has entered. Those Interim Consent Orders have principally focused on identifying categories of expungement orders that allegedly contained specific impediments to their processing by the NJSP, thus contributing to the backlog of unprocessed expungement orders. The Interim Consent Orders provide that many of those orders will be processed promptly as they are, while in other circumstances the NJSP may seek additional information from the petitioner's counsel—or, where petitioner does not have counsel, from the OPD—to resolve the impediments identified by the parties prior to processing the expungement order.

More recently, the parties' discussions have focused more directly on the core issue in this case, which is reducing the volume of the backlog of unprocessed expungement orders. To that end, the NJSP has committed to developing a technological mechanism that will allow it to process expungement orders in bulk batches. The NJSP has already developed and implemented such a mechanism for processing "expedited" expungement orders of dismissed charges under N.J.S.A. 2C:52-6, and it is in the process of developing and implementing a similar mechanism for other, non-expedited expungement orders. Those non-expedited expungement orders include regular expungement orders under N.J.S.A. 2C:52-2 (criminal convictions), -3 (disorderly persons and petty disorderly persons convictions), -4 (municipal ordinance violations), and -4.1 (juvenile adjudications of delinquency); clean slate expungement orders under N.J.S.A. 2C:52-5.3; and Recovery Court expungement orders under N.J.S.A. 2C:35-14(m).

The parties are optimistic that they will have significant progress to report in the next few weeks, which will potentially lead to a final settlement agreement that will resolve this lawsuit. Accordingly, the parties jointly request a short adjournment until November 20, 2024, to provide a further status update to the Court. Enclosed herein is a Proposed Order to that effect.

Should Your Honor have any questions for, or requests for additional information from, the parties regarding the status of this matter, we are happy to provide prompt responses to the Court. We thank the Court for its ongoing courtesies in this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael Noveck", written in a cursive style.

Michael R. Noveck
Deputy Public Defender

Enclosure

cc: Counsel of Record (via eCourts)