**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37**

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| COMMONWEALTH OF PENNSYLVANIA | : | IN THE SUPERIOR COURT OF PENNSYLVANIA |
| v. | : | |
| JARED MYCHAL THOMPSON | : | |
| APPEAL OF: ROGER FREED | : | No. 414 MDA 2025 |

Appeal from the Order Entered March 7, 2025
In the Court of Common Pleas of Lycoming County Criminal Division at No(s): CP-41-CR-0000808-2022

BEFORE: OLSON, J., MURRAY, J., and LANE, J.

MEMORANDUM BY OLSON, J.: **FILED: DECEMBER 18, 2025**

Appellant, Roger Freed, appeals from the order entered on March 7, 2025. We affirm.

As the trial court ably explained:

> [The] Commonwealth charged [Jared Mychal Thompson ("Thompson")] with committing serious sexual offenses against a minor family member. Shortly after those charges were filed, Thompson accused [Appellant] (a school administrator), as well as at least one teacher, of engaging in sexual activities with him while he was a student in the Williamsport Area School District (WASD), the same school system as [Appellant] and the teacher. By the time Thompson made these accusations, a few years had passed and he was in college and no longer a minor.
>
> The Commonwealth sought to *nol pros* the charges against Thompson because the alleged child victim was not willing to testify against Thompson. The Commonwealth submitted a stipulated order to *nol pros* the charges against Thompson, which the [trial] court initially granted on November 1, 2023. Shortly thereafter, Thompson filed a petition for

> expungement [of his criminal history record information under 18 Pa.C.S.A. § 9122]. . . .
>
> On November 29, 2023, due to a new appellate court case, the [trial] court *sua sponte* vacated the *nol pros* order and scheduled the matter for a hearing. On December 6, 2023, [Appellant] filed a petition to intervene in any expungement proceedings to protect his constitutional rights under the Sixth Amendment of the United States Constitution and Article 1, § 9 of the Pennsylvania Constitution to confront Thompson and cross-examine him during [Appellant's] criminal trial. The [trial] court granted the *nol pros* and [Appellant's] petition to intervene in an opinion and order entered on July 11, 2024.
>
> [Appellant's] criminal case went to trial in early March 2025 and, on March 6, 2025, the jury acquitted [Appellant]. On March 7, 2025, the [trial] court granted Thompson's petition for expungement. [Appellant] appealed.

Trial Court Opinion, 5/27/25, at 1-2 (footnotes omitted).

Appellant raises the following claim on appeal:

> Whether the trial court abused its discretion in granting the expungement of [Thompson]?

Appellant's Brief at 5.

We have reviewed the briefs of the parties, the relevant law, the certified record, and the opinion of the able trial court judge, the Honorable Nancy L. Butts. We conclude that Appellant is not entitled to relief in this case, for the reasons expressed in President Judge Butts' well-reasoned May 27, 2025 opinion. Therefore, we affirm on the basis of President Judge Butts' able opinion and adopt it as our own. In any future filing with this or any other court addressing this ruling, the filing party shall attach a copy of President Judge Butts' May 27, 2025 opinion.

Order affirmed. Jurisdiction relinquished.

Judgment Entered.

Benjamin D. Kohler, Esq.
Prothonotary

Date: 12/18/2025

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IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

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| **COMMONWEALTH** | **: No. CP-41-CR-0000808-2022** |
| **vs.** | **:** |
| **JARED THOMPSON,** | **: 1925(a) Opinion** |

**OPINION IN SUPPORT OF ORDER IN COMPLIANCE WITH RULE 1925(a) OF THE RULES OF APPELLATE PROCEDURE**

This opinion is written in support of this court's Order granting the petition for expungement filed by Jared Thompson (hereinafter Thompson), which has been appealed by Intervenor, Roger Freed (hereinafter Freed).

By way of background, the Commonwealth charged Thompson with committing serious sexual offenses against a minor family member. Shortly after those charges were filed, Thompson accused Freed (a school administrator), as well as at least one teacher, of engaging in sexual activities with him while he was a student in the Williamsport Area School District (WASD), the same school system as Freed and the teacher. By the time Thompson made these accusations, a few years had passed and he was in college and no longer a minor.[1]

The Commonwealth sought to *nol pros* the charges against Thompson because

[1] Thompson turned 18 years old during his senior year of high school and graduated from high school in early June of 2018.

the alleged child victim was not willing to testify against Thompson. The Commonwealth submitted a stipulated order to *nol pros* the charges against Thompson, which the court initially granted on November 1, 2023. Shortly thereafter, Thompson filed a petition for expungement. On November 29, 2023, due to a new appellate court case, the court *sua sponte* vacated the *nol pros* order and scheduled the matter for a hearing. On December 6, 2023, Freed filed a petition to intervene in any expungement proceedings to protect his constitutional rights under the Sixth Amendment of the United States Constitution and Article 1, §9 of the Pennsylvania Constitution to confront Thompson and cross-examine him during Freed's criminal trial. The court granted the *nol pros* and Freed's petition to intervene in an Opinion and Order entered on July 11, 2024.

Freed's criminal case went to trial in early March 2025 and, on March 6, 2025, the jury acquitted Freed. On March 7, 2025, the court granted Thompson's petition for expungement. Freed appealed.

In his concise statement, Freed asserts the following issues:

1. The court erred by granting expungement by order dated March 7, 2025.

2. The Court erred by granting the expungement because the charges were dismissed as a result of the alleged victim refusing to testify rather than as a result of an acquittal. *See Commonwealth v. Persia*, 673 A.2d 969 (Pa. Super. 1996).

3. The Court erred by granting the expungement when Thompson presented no evidence to satisfy the *Wexler* factors or any other factors a court could consider outside of the non-exhaustive list of factors announced in *Wexler* and subsequent cases. *See Commonwealth v. Wexler*, 431 A.2d 877 (Pa. 1981).

4. The Court erred by holding that the Commonwealth agreed to the expungement.

The court will not address issue 1, as it is boilerplate and subsumed in the remaining issues.

Initially, the court questions Freed's continued standing in this matter. The court recognizes that it permitted Freed to intervene, but it did so based solely on the fact that his criminal case was pending and his confrontation rights under the Sixth Amendment of the United States Constitution and Article 1 §9 of the Pennsylvania Constitution which only apply to criminal prosecutions. Freed's criminal case is over. He was acquitted. There are no appeals and there cannot be any further criminal proceedings due to double jeopardy. The criminal proceedings and the rights associated therewith were the only bases given in the petition to intervene. In fact, Thompson's counsel argued that Freed would lose standing after cross-examination of Thompson at Freed's trial. *See* Transcript, 11/18/2024, at 3-4.

Freed contends that the court erred granting the expungement because the charges were dismissed as a result of the alleged victim refusing to testify rather than as a result of an acquittal. See *Commonwealth v. Persia*, 673 A.2d 969 (Pa. Super. 1996). The court finds that Freed's reliance on *Persia* is misplaced.

In *Persia*, the Commonwealth opposed the appellant's petition for expungement and presented evidence (expert testimony from the child's therapist) in support of its position. The appellant was allegedly part of a group of individuals who were using children for sexual purposes. Through therapy sessions with several children, the therapist heard the same names, including the appellant's being mentioned by the children. The therapist also testified regarding the recidivist rates for homosexual pedophilic offenders. The trial court denied the petition and Persia appealed. The issue was whether the trial court abused its discretion in

denying expunction. The Superior Court held that it did not.

In comparison, here the Commonwealth did not oppose Thompson's petition for expungement. No one presented testimony or evidence; there was only argument from counsel for the parties. The only party that opposed expungement was Freed and the only basis for his opposition was to protect in his criminal trial his confrontation rights under the United States and Pennsylvania constitutions. The court protected Freed's rights by deferring expungement until after his criminal trial was completed. Since the result of Freed's criminal trial was an acquittal, there could be no further criminal proceedings against him related to Thompson. At that point, there was no reason to defer or deny expunction.

Freed also asserts that the court erred by granting the expungement when Thompson presented no evidence to satisfy the *Wexler* factors or any other factors a court could consider outside of the non-exhaustive list of factors announced in *Wexler* and subsequent cases. *See Commonwealth v. Wexler*, 431 A.2d 877 (Pa. 1981). The court cannot agree.

The *Wexler* factors, which are not exclusive or exhaustive, include:

> the strength of the Commonwealth's case against the petitioner; the reasons the Commonwealth gives for wishing to retain the records, the petitioner's age, criminal record, and employment history, the length of time that has elapsed between the arrest and the petition to expunge, and the specific adverse consequences the petitioner may endure should expunction be denied.

*Commonwealth v. Wexler*, 431 A.2d 877, 879 (Pa. 1981).

No one objected to the information being presented to the court through the arguments of counsel. If Freed's counsel had objected, Thompson, the victim, and the victim's mother were present in the courthouse and available to testify. There was no objection from any party and the positions were stated by the attorneys.

As the Commonwealth admitted at the *nol pros* hearing, it could not prosecute the petitioner. The prosecutor stated that the victim was not willing to testify against the petitioner and did not wish to prosecute him. The Commonwealth had no other witnesses to substantiate or prove its case. The prosecutor waited approximately five months and spoke to the victim before he moved to *nol pros* the case. The child, who by this point was a teenager,[2] personally told him that she did not wish to be a victim and she did not wish to proceed against the petitioner. Transcript, 02/05/2024, at 4-8. The prosecutor even stated that he was "unwilling to keep up the charade" that the Commonwealth "had a prosecutable case." *Id.* at 6. The Commonwealth offered no reason to retain the records.

Thompson's attorney noted that Thompson was 25 years old at the time of the hearing. Thompson had some employment history but because the charges were still on his arrest record, it was difficult for him to find employment. It was interfering with his livelihood, his reputation and his ability to find good employment. Transcript, 11/18/2024, at 4-5.

Counsel for Freed noted that the time between the filing of the charges was approximately two years. Transcript, 11/18/2024, at 7.

The court also notes that the criminal complaint, which is contained the in the case file and of which the court would take judicial notice, reflects that the alleged crimes occurred between January 2018 and January 2020. The criminal complaint was filed and an arrest warrant was issued on April 25, 2022. Although the MDJ docket does not indicate the date of arrest, it indicates that the petitioner's preliminary arraignment occurred on May 4,

[2] The alleged crimes occurred between January 2018 and January 2020.

2022. The petition to expunge was filed on November 22, 2023, after the initial *nol pros* order was entered and before it was vacated. The *nol pros* hearing occurred on February 5, 2024. The court granted the *nol pros* on July 11, 2024. The expungement hearing occurred on November 18, 2024. Expungement was granted on March 7, 2025, after the criminal proceedings against Freed and the teacher were completed. Therefore, it was approximately 2 ½ years from the date of arrest to the date of the expungement hearing and 2 years 10 months from the date of arrest to the date the court granted the petition for expungement.

When the *Wexler* factors are weighed under the facts and circumstances of this case, expungement was proper. By its own admissions, the Commonwealth did not have a prosecutable case. There was no reason to retain the records as the Commonwealth did not care if they were expunged and Freed's criminal trial was completed. There were good reasons to expunge the petition so that Thompson's employment opportunities and reputation would not be negatively impacted by allegations which the Commonwealth admittedly could not prove.

Lastly, Freed contends that the court erred by holding that the Commonwealth agreed to the expungement. The court acknowledges that, technically speaking, the Commonwealth did not "agree" to expungement, but the court finds that this is merely a matter of semantics which does not entitle Freed to relief.

Thompson's counsel submitted the expungement order to the court. The order stated that "the Commonwealth was in agreement with the expungement." The court did not recall the prosecutor's exact words, but it was aware that the Commonwealth was not opposed to expungement. Rather, the dispute was clearly between Thompson and Freed. What the

Commonwealth stated during the hearing was that it did not take a position one way or the other and left the decision up to the court. Transcript, 11/18/2024, at 5. It did, however, note that the *nol pros* was without prejudice so that in the event the alleged victim had a change of heart later, the Commonwealth could refile the charges, even if the *nol prossed* charges in the current case were expunged. *Id.* at 9. It also admitted that it did not have a prosecutable case against Thompson at the *nol pros* hearing and it did not offer any reasons for it to retain the records at the expungement hearing. Since the Commonwealth did not offer any reasons to retain the records and Freed's reasons for intervening were extinguished when he was acquitted of the charges, there was no reason to deny the petition for expungement in this case.

DATE: May 27 2025

By The Court,

Nancy L. Butts, President Judge

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