

Circuit Court for Howard County
Case No.: 13-K-90-022509

UNREPORTED*

IN THE APPELLATE

COURT OF MARYLAND

No. 1930

September Term, 2024

JEROME SCHAIRD

V.

STATE OF MARYLAND

Leahy,
Zic,
Geller, Jeffrey M.
(Specially Assigned),

JJ.

Opinion by Geller, J.

Filed: April 6, 2026

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

Jerome Schaired (“Appellant”) was charged in the Circuit Court for Howard County with forgery, uttering, two counts of theft, and credit card offense. Appellant entered a plea of guilty on January 28, 1991. The court sentenced Appellant on the same date. On June 20, 1991, the court issued a Show Cause Order for an alleged violation of probation. On August 27, 1991, Appellant appeared before the court, at which time the judge dismissed the charge of violation of probation and continued Appellant on probation. On October 28, 1992, the court issued a second Show Cause Order. Appellant admitted the violation at a hearing held on January 5, 1993, at which time the judge extended the probation for an additional year. Appellant successfully completed his term of probation on July 28, 1993.

On August 29, 2024, Appellant filed a Petition for Expungement. Due to the passage of time since the conviction, scant court records existed. This, combined with revision of the Maryland Criminal Code in the interim, presented challenges in categorizing Appellant’s conviction for expungement eligibility purposes. The trial court denied the Petition at a hearing held on October 30, 2024. In denying the Petition the court stated, “All right. If I was permitted to expunge it, I likely would. But I don’t believe there is a theory under which I can because I don’t think that this – the conviction he received is a crime that is eligible for expungement. So, I’ll deny the request.”

Appellant timely appealed and now asks us to address the following question: “Did the lower court err in finding Mr. Schaired’s conviction was ineligible for expungement and in denying his petition for expungement?”

Finding no error, we shall affirm.

DISCUSSION

Whether a person qualifies for expungement presents a question of law that we review de novo. *In re Abhishek I.*, 255 Md. App. 464, 468, 282 A.3d 318 (2022). The petitioner bears the burden of producing evidence demonstrating statutory eligibility for expungement. Maryland law authorizes expungement only for those convictions that the statute expressly lists. Md. Code Ann., Crim. Proc. § 10-110 (2001, 2025 Repl. Vol.). The statute permits expungement for certain misdemeanor credit card offenses but does not authorize expungement for felony credit card convictions. The dispositive issue therefore is whether the available evidence indicates a misdemeanor conviction or instead establishes a felony conviction.

The circuit court correctly concluded that Appellant’s conviction is not eligible for expungement. The electronic judiciary records reflect a conviction under former Article 27, § 145(c)(6), which corresponds to what is now codified as Criminal Law § 8-205, a felony offense. Md. Code Ann., art. 27, § 145(c)(6) (1957, 1987 Repl. Vol.); Md. Code Ann., Crim. Law § 8-205 (2002, 2021 Repl. Vol.). The surviving file jacket, moreover, is consistent with that conclusion.¹

Appellant argues that the term “credit card offense” on the file jacket creates ambiguity that requires application of the rule of lenity. We disagree. The rule of lenity

¹ The record provides additional support for the circuit court’s conclusion. Although the parties referenced the paper file jacket, neither addressed the significance of the restitution entry it contains. That file jacket, the only surviving part of the court file, contains an entry stating, “\$1040.46 Rest. to People’s 1st Nat. Bank Thru P+P.” This notation reflects that the court ordered restitution in excess of \$1,000 through the Department of Parole and Probation. At the time of Appellant’s conviction, Article 27, § 145 set \$300 as the dividing line between misdemeanor and felony credit card offenses. Restitution exceeding that threshold is consistent with a felony conviction under the statute then in effect.

applies only when a court confronts an irreconcilable ambiguity after exhausting traditional tools of statutory interpretation. *Oglesby v. State*, 441 Md. 673, 676, 109 A.3d 1147 (2015) (rule applies “when [a criminal statute] is open to more than one interpretation and the court is otherwise unable to determine which interpretation was intended by the Legislature.”) Here, the ambiguity Appellant identifies does not arise from the statute’s meaning, but from the incompleteness of the surviving court records. In that circumstance, the petitioner still bears the burden of demonstrating eligibility for expungement.² The evidence before the circuit court did not merely fail to establish a misdemeanor conviction; it affirmatively indicated a felony conviction.

The circuit court appropriately considered the judiciary records together with the file jacket and the absence of any evidence supporting a misdemeanor theory. Although those records do not substitute for a certified judgment, the court could consider them along with the remaining file materials in determining whether Appellant met his burden. When the available evidence points in one direction, speculation about alternative possibilities does not satisfy the expungement petitioner’s burden.

Accordingly, the circuit court correctly concluded that Appellant failed to demonstrate that his conviction fell within the class of offenses eligible for expungement

² The State initially argued in the circuit court that, even if he had been convicted of an expungement-eligible offense, Appellant’s violation of probation rendered him ineligible for expungement. On appeal, the State has abandoned that argument. Although that argument does not affect the outcome here, we would not adopt the State’s earlier position. Although the court found Appellant in violation of probation and extended his probation as a sanction, he ultimately completed the probationary term successfully. That history would not, by itself, bar expungement if the underlying conviction otherwise qualified under the statute.

under Criminal Procedure § 10-110.

**JUDGMENT OF THE CIRCUIT COURT
FOR HOWARD COUNTY AFFIRMED.
COSTS TO BE PAID BY APPELLANT.**