

IN THE SUPREME COURT OF MISSISSIPPI

NO. 2025-CA-00900-SCT

TIMOTHY WAYNE FURR

v.

STATE OF MISSISSIPPI

DATE OF JUDGMENT:	06/26/2025
TRIAL JUDGE:	HON. JAMES McCLURE, III
TRIAL COURT ATTORNEYS:	JAMES BRANDON JUSTICE SCOTT THEODORE ZGODA JAMES STEPHEN HALE, JR. MARVELL MAURICE GORDON
COURT FROM WHICH APPEALED:	YALOBUSHA COUNTY CIRCUIT COURT
ATTORNEY FOR APPELLANT:	JAMES BRANDON JUSTICE
ATTORNEY FOR APPELLEE:	OFFICE OF THE ATTORNEY GENERAL BY: ABBIE EASON KOONCE
NATURE OF THE CASE:	CIVIL - OTHER
DISPOSITION:	REVERSED AND REMANDED - 10/08/2026
MOTION FOR REHEARING FILED:	

BEFORE COLEMAN, P.J., ISHEE AND BRANNING, JJ.

ISHEE, JUSTICE, FOR THE COURT:

¶1. Timothy Wayne Furr appeals the Yalobusha County Circuit Court’s denial of his petition to expunge a second felony conviction pursuant to Mississippi Code Section 99-19-71 (Rev. 2020). Because the circuit court erroneously interpreted the statute, we reverse and remand for further proceedings.

FACTS

¶2. In 2010, Furr pleaded guilty in two separate criminal proceedings to grand larceny for four-wheeler thefts occurring two weeks apart in the same county. In 2020, he petitioned to

expunge one of those convictions. The circuit court granted the petition.

¶3. In 2025, after learning that his other grand-larceny conviction had not been expunged, Furr filed a second petition seeking expungement of the remaining conviction. At the hearing, the circuit court found that the two convictions arose from a common nucleus of operative facts. Nevertheless, the court denied relief, explaining that Furr had previously sought and obtained an expungement under Section 99-19-71 and that the second conviction should have been included in the original petition rather than presented years later in a separate proceeding. The circuit court subsequently entered an order denying relief.

DISCUSSION

¶4. Expungement is purely a creature of statute. *Robertson v. State*, 158 So. 3d 280, 281 (Miss. 2015). “This Court applies a de novo standard of review to questions of statutory interpretation.” *Id.* (internal quotation marks omitted) (quoting *Finn v. State*, 978 So. 2d 1270, 1272 (Miss. 2008)). This Court has recognized that “expungement . . . is an act of legislative grace[, and] [n]o common law right to expungement of criminal records exists.” *Polk v. State*, 150 So. 3d 967, 968 (Miss. 2014) (citing *In re Expungement of the Crim. Records of G.P.B.*, 91 A.3d 648 (N.J. Super. Ct. App. Div. 2014)).

¶5. Furr argues that the circuit court committed an error of law because Section 99-19-71 contains no requirement that all convictions arising from a common nucleus of operative facts be presented in the same petition. He contends the circuit court mistakenly believed the passage of time deprived it of authority to grant the requested relief.

¶6. Mississippi Code Section 99-19-71(2)(b) (Rev. 2020) provides that a circuit court

“may” grant an expungement upon satisfaction of the statutory prerequisites. The statute further provides that, for purposes of the “one (1) conviction” and “one (1) felony expunction” limitation, all convictions “that arose from a common nucleus of operative facts” constitute one conviction “as determined in the discretion of the court.” Miss. Code Ann. § 99-19-71(2)(a) (Rev. 2020).

¶7. Here, the circuit court expressly determined that Furr’s convictions arose from a common nucleus of operative facts. Even so, the circuit court held that Furr’s petition for expungement should be denied because “pursuant to the statute you get one expungement[;] Mr. [Furr] has had that one expungement. [This conviction] should have been handled in 2020 and it wasn’t.” The court continued:

I’m not going to grant him a second expungement, because that’s technically what this would be, because the statute says he’s only entitled to one. The argument that you’re making should have been made in 2020 and it wasn’t . . . it’s a five year gap, and I don’t think he can overcome that. Now the appellate court may say different.

¶8. We do not agree with the circuit court’s interpretation and application of the statute. The Legislature certainly limited the availability of felony expungements. *See* § 99-19-71. It required completion of the sentence, excluded specified offenses, and limited relief to one felony expungement, while defining that term to include all convictions arising from a common nucleus of operative facts. *See* § 99-19-71(2)(a). But nowhere did the Legislature require that all such convictions be presented in a single petition. Nor did it provide that a petitioner forfeits otherwise available relief by failing to include every related conviction in the first expungement proceeding. Here, the circuit court expressly found that the

convictions arose from a common nucleus of operative facts. By statute, those convictions therefore constitute “one (1) conviction” and “one (1) felony expunction” for purposes of Section 99-19-71(2)(a). Nothing in the statute conditions that treatment on both convictions’ being presented in the same petition or filed within a certain time frame if petitioned separately. Thus, we find that the circuit court erroneously concluded that the second petition was precluded based on the passage of time and the fact that it was not presented in the same petition.

¶9. To be clear, Furr is not automatically entitled to expungement as a matter of law. The statute leaves that ultimate determination to the sound discretion of the circuit court. This Court finds, however, that the court committed an error of law by concluding that the statute prevented it from granting the petition. On remand, the circuit court must reconsider the petition under the standards prescribed by Section 99-19-71 without treating the prior expungement proceeding or the delay in filing the present petition as dispositive grounds for denial.

CONCLUSION

¶10. The circuit court interpreted Section 99-19-71 to preclude a subsequent petition once one expungement had previously been granted. Because the statute contains no such limitation, the court’s interpretation constituted an error of law requiring reversal. Therefore, we reverse the judgment of the Yalobusha County Circuit Court and remand the case for proceedings consistent with this opinion.

¶11. **REVERSED AND REMANDED.**

RANDOLPH, C.J., KING AND COLEMAN, P.JJ., GRIFFIS, SULLIVAN, BRANNING AND TOLLISON, JJ., CONCUR. WILSON, J., SPECIALLY CONCURS WITH SEPARATE WRITTEN OPINION JOINED BY RANDOLPH, C.J., GRIFFIS, SULLIVAN, BRANNING AND TOLLISON, JJ.

WILSON, JUSTICE, SPECIALLY CONCURRING:

¶12. Although I agree with the majority’s analysis of Mississippi Code Section 99-19-71 (Rev. 2020), I write separately to emphasize that the decision by the circuit-court judge was one that was well within his discretion. The record evidences that Furr filed a second petition for expungement on crimes that the circuit court found to be related to the prior petition for expungement, which the court had granted approximately five years before. The circuit court was not required to expunge convictions that were never included in the initial petition. *Parker v. Ross*, 367 So. 3d 151, 156 (Miss. 2023) (“It is axiomatic that ‘[t]he trial judge cannot be put in error on a matter which was not presented to him for decision.’” (alteration in original) (internal quotation marks omitted) (quoting *Gordon v. Wall (In re Will of Waller)*, 273 So. 3d 717, 721 (Miss. 2019))). Furr’s attorney’s failure to request all the related convictions to be expunged in the initial 2020 petition does not impact the discretionary authority granted to the circuit court. Under Mississippi Code Section 99-19-71(2)(b) (Rev. 2020) (emphasis added), the court “*may* grant the petition if the court determines, on the record or in writing, that the applicant is rehabilitated from the offense which is the subject of the petition.” See *Wallace v. State*, 360 So. 3d 231, 237 (Miss. 2023) (“‘[M]ay’ is discretionary.” (internal quotation marks omitted) (quoting *Khurana v. Miss. Dep’t of Revenue*, 85 So. 3d 851, 854 (Miss. 2012))). Furr merely sought a second bite at the apple.

¶13. The circuit-court judge found on the record that the two convictions shared a common nucleus of operative facts but that Section 99-19-71 barred a second attempt at expungement of the related convictions. Because this Court is providing new direction to clarify the statute, I agree with the majority's result to reverse and remand the case for the circuit court to reconsider the denial of Furr's petition for expungement. I find, however, that neither the language of the statute nor the decision of this Court requires the circuit court to reach a different result.

**RANDOLPH, C.J., GRIFFIS, SULLIVAN, BRANNING AND TOLLISON, JJ.,
JOIN THIS OPINION.**