

IN THE SUPREME COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE,	§
	§ No. 158, 2005
Respondent Below-	§
Appellant,	§
	§
v.	§ Court Below—Family Court
	§ of the State of Delaware,
NATHANIEL AARON FISHER,	§ in and for Kent County
	§ File No. JK97-1478
Petitioner Below-	§
Appellee.	§

Submitted: February 17, 2006

Decided: May 17, 2006

Before **STEELE**, Chief Justice, **JACOBS**, and **RIDGELY**, Justices.

**ORDER**

This 17<sup>th</sup> day of May 2006, upon consideration of the appellant's opening brief and the record below,<sup>1</sup> it appears to the Court that:

(1) The State of Delaware filed this appeal from the Family Court's order expunging appellee Nathaniel Aaron Fisher's juvenile record. The State contends that the Family Court abused its discretion in expunging Fisher's record because it failed to properly weigh the State's interest against Fisher's interest. We find no abuse of discretion and affirm the Family Court's judgment.

(2) The record reflects that Fisher pled delinquent in May 1999 to one count of fourth degree rape. Fisher was 17 at the time of the criminal act, and the

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<sup>1</sup> By order dated December 27, 2005, the Court found appellee to be delinquent in filing an answering brief and ordered that the appeal be considered on the basis of the opening brief and record alone.

victim was 12. The police report indicates that Fisher told the police that the sexual encounter was consensual and the victim had told him she was older. The report further indicates that the officer interviewed the victim who also indicated that she had willingly engaged in sex with Fisher. The victim did not otherwise provide a statement to the trial court, despite being given the opportunity to do so. The Family Court ordered Fisher to be placed at Level IV at the discretion of the Division of Youth Rehabilitative Services and to register as a Tier II sex offender.

(3) In January 2005, Fisher filed a petition to have his juvenile record expunged. Fisher indicated that three years had elapsed since his delinquency adjudication and he had no other adjudications entered against him.<sup>2</sup> The State opposed Fisher's petition "because of the seriousness of the crime." The Family Court held a hearing at which Fisher and the State both appeared. At the conclusion of the hearing, the Family Court specifically noted that: (i) Fisher's crime did not involve an allegation of force; (ii) the psychological evaluations did not provide a basis to conclude Fisher was a continued risk; (iii) Fisher was 17 at the time of the crime; and (iv) Fisher requested the expungement in order to be recertified as an emergency medical technician. The Family Court granted the petition for expungement pursuant to 10 Del. C. § 1001(c).<sup>3</sup>

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<sup>2</sup> 10 Del. C. § 1001(a) (1999).

<sup>3</sup> 10 Del. C. § 1001(c) (1999). Section 1001(c) provides in part that, upon the filing of a petition, the "Court shall hear the matter and if no material objection is made and no reason appears to the contrary, an order may be granted" ordering the records to be expunged. The only

(4) In its opening brief on appeal, the State asserts that the Family Court abused its discretion in granting the petition because it failed to adequately weigh the State's societal interest in opposing the expungement against Fisher's personal interest in favor of the expungement. It is clear from the record, however, that the Family Court carefully considered the State's objection to Fisher's expungement petition. The Family Court concluded that the State's position is not correct in this particular case based upon the situation, considering the nature of the offense, the psychological and psychiatric evaluations, Mr. Fisher's age, and also Mr. Fisher's reason for having it expunged." The record shows that the findings of the Family Court were the result of a logical and orderly deductive process. We find no abuse of discretion.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Family Court is AFFIRMED.

BY THE COURT:

/s/ Henry duPont Ridgely  
Justice

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exceptions are records involving crimes of second degree murder, first degree arson, and first degree burglary, which may not be expunged.