

COA Opinion: A juvenile whose case the court dismisses under MCL 712A.18(1)(a) is not entitled to have his fingerprint and arrest cards destroyed under MCL 28.243(8)

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On November 30, 2010, the Court of Appeals published its opinion in *People v Klocek*, No. 292993. In *Klocek*, the Court of Appeals held that under MCL 28.243(8), a law enforcement agency is not required to destroy a juvenile's fingerprint and arrest cards when a court disposes of a case under MCL 712A.18(1)(a), under which a court may "warn a juvenile" and "dismiss the petition."

In *Klocek*, a juvenile was charged with one count of malicious use of a telecommunications device. The juvenile admitted the allegation, and the trial court dismissed the case under MCL 712A.18(1)(a). The juvenile subsequently argued that because the case was dismissed, MCL 28.243(8) required the Michigan State Police to destroy her fingerprint and arrest cards because the dismissal constituted a finding of "not guilty." The trial court granted the juvenile's motion.

The Court of Appeals reversed, relying primarily on *McElroy v State Police Information Center*, 274 Mich App 32 (2007), and *People v Benjamin*, 283 Mich App 526 (2009). In *McElroy*, the defendant entered a plea of no contest to domestic violence charges with an agreement that the charges would be dismissed if he complied with the terms of his probation. In *Benjamin*, three defendants pleaded guilty to drug possession but were allowed to participate in a diversionary program that, if successfully completed, would result in dismissal of their respective cases. In both *McElroy* and *Benjamin* the defendants observed the terms of the plea agreements, and the Court consequently dismissed each case. However, the Court refused to order the defendants' arrest and fingerprint cards destroyed because the dismissals under the statutes of the criminal charges were not equivalent to a finding of "not guilty." The Court applied that reasoning in *Klocek*. It held that because the juvenile admitted guilt and her case was dismissed by statute, she was not adjudicated to a "not guilty" verdict, and therefore MCL 28.243(8) did not compel the Michigan State Police to destroy her fingerprint and arrest cards.