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Conditional Discharge Does Not Clean the Slate in New Mexico

In the case of criminal charges in New Mexico, a conditional discharge is often a very positive outcome. A conditional discharge will result in the eventual dismissal of the charges.

A conditional discharge allows for the disposition of the criminal charges without an adjudication of guilt. This means that the defendant is never found guilty of any crime so long as all conditions of probation are met.

However, to get a conditional discharge, the defendant must enter a plea of guilty or no-contest. In the event of a violation of the terms of the conditional discharge, the plea then turns into a conviction.

The conditional discharge does not wipe the record clean. Though there is no conviction, there will always remain a record of the charges and the proceedings. As such, anyone doing a background check on the defendant will see that the charges were filed and dismissed.

Because there was no conviction, many defendants believe that the record should be expunged. The mere fact of the charges can have very serious consequences in the future. Unfortunately, despite the fact of the dismissal, the New Mexico Courts have held consistently the right to expungement to be very limited.

The issue came up most recently in *State v. C.L.* *State v. C.L.* addressed in depth the right to an expungement. In *State v. C.L.*, a showing of adverse employment consequences due to the court record was expressly held to be insufficient for an expungement. Under the New Mexico Court of Appeals ruling in *C.L.*, an expungement is possible only in case of a finding of unlawful arrest or unlawful conviction.

Unfortunately, a conditional discharge meets neither of these criteria. The conditional discharge is meant as a second chance of sorts. However, a conditional discharge will not completely wipe the record clean. This is possible only through expungement which is difficult and rare to put it mildly.

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