

Wednesday, November 16, 2011
9:00 A.M.

NO. 1

#25955

In the Matter of the
Expungement of Records
Related to MISTY JO OLIVER,
Petitioner.

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(FOR APPELLANT STATE)

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(FOR APPELLEE OLIVER)

The Honorable Jon S. Flemmer
Circuit Court Judge
Roberts County

(CIV 10-17)

STATEMENT OF ISSUE

DID THE TRIAL COURT EXCEED ITS CONSTITUTIONAL AND STATUTORY JURISDICTION WHEN IT EXPUNGED RECORDS OF OLIVER'S TWO MISDEMEANOR CONVICTIONS PURSUANT TO THE PROVISIONS OF SDCL 23A-3-26 *et seq.*

On a motion from Appellee Misty Jo Oliver filed pursuant to SDCL 23A-3-26 *et seq.*, the trial court entered an order expunging records of her two misdemeanor convictions. The State of South Dakota challenges the trial court's constitutional and statutory jurisdiction to expunge conviction records under SDCL 23A-3-26 *et seq.*, which only permits expungement of certain arrest records.

Payne v. Anderson, 181 N.W. 839 (S.D. 1921)

Horner v. Taylor, 196 N.W. 494 (S.D. 1923)

State v. Oban, 372 N.W.2d 125 (S.D. 1985)

SDCL 23A-3-26 *et seq.*, Appendix at P2-P4

S.D. Const. Art. IV, § 3 and Art. V, § 5, Appendix at P5-P8