# Criminal record expunging: Saving grace or catastrophic lapse in judgement?

By Jenny Reid                                                                29 May 2015

Another stark reminder of how seriously our justice system takes qualifications fraud presented itself earlier this month when former police spokesman Vincent Mdunge was sentenced to five years imprisonment by the Durban Regional Court.

Mdunge was caught red-handed last year on two counts of fraud and one of forgery when he presented a fake matric certificate in order to further his studies at UNISA and gain promotion in the police. While the judge acknowledged that he was a first-time offender, she still threw the proverbial book at him during sentencing, simply stating that there was nothing respectable about a high-ranking officer committing white-collar crime in an already corruption-rife society.

How then is it possible that the criminal record expunging debate has reared its head again, with the possibility of even further amendments to the law? In 2009, changes to sections 2 and 3 of the Criminal Procedure Amendment Act, allowed for the expunging of criminal records relating to certain criminal convictions. What this basically means is that if a person meets certain criteria, he can apply to have his name cleared. Any background checks performed on that individual in future will not show any trace of prior convictions.

## People needing a clean record

One of the reasons cited for this change in the law at the time, was that it would be 'helpful' to people needing a clean record when applying for employment. Indeed, there are thousands of unemployed job applicants citing their criminal records as the reason for them not getting any job offers.

It seems contradictory to allow for more criminal record expunging while we deliver a rightfully heavy blow to those who lie on their CVs to get the jobs that they aren't qualified for.

We live in a country where almost 600,000 learners who entered the schooling system 12 years ago, dropped out, leaving them without a matric certificate. Add to that figure some research conducted by the Council of Higher Education (CHE) shows that well over 40% of students end up dropping out of university.

So there are already hundreds of thousands of individuals who do not meet the criteria for the jobs they want, and you can put money on the fact that many of these individuals will, eventually, in desperation, pretend to hold those qualifications they never received, in an effort to be employed.

# An unqualified surgeon

If we're terrified at the thought of an unqualified surgeon operating on our loved ones, we should be equally terrified of a convicted negligent driver behind the wheel of a 10-ton truck, or even a convicted rapist lurking in an office full of female co-workers.

Yes, these are extreme examples. But our question is this: How far will the criminal record expunging process go? How will we distinguish between people who have been rehabilitated by the justice system or not? No company needs the disastrous consequences of hiring a fraudster as a financial director, or, the unimaginable, a sexual offender at an educational institution.

I am not saying that every single person with a criminal record is unemployable - not at all. There are thousands of excellent candidates around, who may have practiced poor judgement at some point in their lives, which led to a criminal conviction. There are also thousands of people who have paid for their crimes, served their time, and have been successfully rehabilitated.

The point is this: an employer still has every right to be presented with all the facts before deciding if the candidate is the right choice for the organisation or not. A poorly-thought-out criminal record expunging process could have disastrous consequences. Let's hope that this one gets handled carefully.

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