

DISTRICT COURT, EL PASO COUNTY, COLORADO
Case No. 98CR2462 Division 9

PEOPLE'S MOTION TO DISMISS (Nolle Prosequi) and COURT ORDER

THE PEOPLE OF THE STATE OF COLORADO, Plaintiff,

v.

PHILIP FREYTAG, Defendant.

The District Attorney, pursuant to Crim. P. 48(a), moves to dismiss Count(s) 1 and 2 against Defendant Philip Freytag.

- Present evidence is insufficient and/or a critical witness is not available.
- Such dismissal is part of a plea agreement approved by the Court.
- The complaining witness no longer wishes to prosecute.
- This case will be prosecuted in another court.
- The court-ordered period of deferred prosecution or sentencing has expired.
- Due to passage of time and the Defendant's continued absence, prosecution of this case is no longer likely to succeed.
- Defendant has waived extradition or has returned to the demanding state.
- The demanding state no longer wishes to extradite.

JEANNE M. SMITH, #11053,
DISTRICT ATTORNEY

9-1-98
Date

Robert B. Harward, 6857

By: ~~Edward J. Cord, #25998~~ *Robert B. Harward, 6857*
Deputy District Attorney

State of Colorado, County of El Paso
Certified to be a true, and correct
copy of the original in my custody.

SEP-16-1998
 COUNTY OF EL PASO
 LEE V. COLE, JR.
 CLERK OF THE DISTRICT/COUNTY COURT
 By: *[Signature]* Deputy
 I certify that I mailed a copy of this motion to the opposing Counsel of the State of Colorado on this 1 day of Sept, 1998
[Signature]

at
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VI

EC

DISTRICT COURT, EL PASO COUNTY, COLORADO
Case No. 98CR2462 Division 9

COURT ORDER

THE PEOPLE OF THE STATE OF COLORADO, Plaintiff,

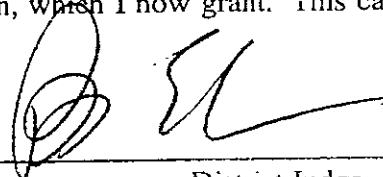
v.

PHILIP FREYTAG, Defendant.

I approve the grounds stated in this motion, which I now grant. This case is dismissed to the extent specified in the motion.

9-1-98

Date



District Judge

State of Colorado, County of El Paso
Certified to be a true, and correct
copy of the original in my custody.

SEP 16 1998

LEE V. COLE JR.
CLERK OF THE DISTRICT COUNTY COURT

By  Deputy

FC

DISTRICT COURT, EL PASO COUNTY, STATE OF COLORADO

Case No. 98CR 2462

Division 9

ORDER RE: VERIFIED PETITION TO SEAL ARREST AND CRIMINAL RECORDS,
PURSUANT TO SECTION 24-72-308, C.R.S., AS AMENDED

In Re the Petition of:

PHILIP C. FREYTAG,

Petitioner

THIS MATTER, having come before the Court on the 1st day of June, 1999 for hearing on the Petitioner's Verified Petition to Seal Arrest and Criminal Records, pursuant to §24-72-308, C.R.S., as amended and Petitioner being present through his attorney, William A. Aspinwall, the Court finds as follows:

1. That adequate notice of the hearing has been provided to all custodians of the affected criminal justice records and information.
2. The Petitioner was the Defendant in the case of the People of the State of Colorado v. Philip C. Freytag, 98 CR 2462, based on Colorado Springs Police Department case number 97-36997 and that charges were dismissed on June 18, 1998 by the District Court.
3. That Petitioner is employed as an independent registered consulting engineer with some contracts with local government entities. The Petitioner is semi-retiring to the Country of Belize with the intent to obtain a residence there and do part-time consulting. He needs to provide favorable police reports to immigration authorities in that country.
4. The Court finds that the criminal justice records and information relating to Colorado Springs Police Department case number 97-36997 and District Court case number 98 CR 2462, Division 9, pose a danger of unwarranted adverse consequence to the Petitioner. Those unwarranted adverse consequences, if realized to the Petitioner, far out-weigh the public interest in retaining the criminal justice records and information available to the public.
5. The Court orders that all criminal justice records and information relating to the Petitioner, in the custody and control of the District and County Courts of the Fourth Judicial District, the District Attorney for the Fourth Judicial District, the Colorado Bureau of Investigation, the Fremont County Sheriff's Department, the Colorado Springs Police Department, and the Canon City Police Department relating to Colorado Springs Police Department case number 97-36997 and District Court case number 98 CR 2462-9 and any and all Colorado Springs Police Department investigative reports, witness statements, computer entries, audio tapes and associated material to said incident, any disposition records, and Court

schedule notice shall be permanently sealed with the exception of basic identification information of the Petitioner.

6. The Court also orders that this civil action shall be permanently sealed.

7. The Petitioner and all criminal justice agencies may properly relay, upon any inquiry into the matter, that no such records exist with respect to the Petitioner.

8. Inspection of the criminal justice records and information included within the ambit of this Order sealing criminal justice records is strictly prohibited except upon Order first obtained from the Court based upon a petition filed by the Petitioner or by the Prosecuting Attorney. Said inspection may occur only for the purposes named in said petition and only if said petition is granted.

9. Hereafter, the Petitioner need not, in answer to any question posed to him by employers, educational institutions, state and local government agencies, officials, and employees, concerning arrest and criminal justice records information that has been sealed by this Order, include a reference to or information concerning such sealed records and information and may state no such action has ever occurred. By operation of law, employers, educational institutions, state and local government agencies, officials, and employees shall not, in any application or interview or in any other way, require the Petitioner to disclose any information contained in sealed records.

10. By operation of law, employers, educational institutions, state and local government agencies, officials, and employees shall not deny an application of the Petitioner solely because the Petitioner has refused to disclose arrest and criminal justice records information that has been sealed.

SO ORDERED this 21 day of June, 1999.

DOUGLAS E. ANDERSON

District Court Judge