

2630/5.2(d)(5) (West 2010)). We affirm.

¶ 3

I. BACKGROUND

¶ 4

On March 1, 2012, petitioner filed a petition to seal his 1991 felony drug conviction and all records related to his November 1990 arrest. According to his petition, petitioner was convicted under section 402 of the Illinois Controlled Substances Act (720 ILCS 570/402 (West 2010) (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, ¶ 1402), and completed his sentence in March 1993. Petitioner attached proof he passed a drug test on January 9, 2012. No party, including the State, filed an objection to the petition within 60 days of its service (20 ILCS 2630/5.2(d)(5) (West 2010)).

¶ 5

In May 2012, the trial court entered an order denying the petition. On the written order, the court cited four of petitioner's convictions for misdemeanors, including the 1987 conviction for attempt to elude police, two 1988 convictions for driving on a suspended license, and a 1990 conviction for driving under the influence.

¶ 6

In June 2012, petitioner filed a motion to reconsider the trial court's order denying his petition. Petitioner argued the record demonstrated he was eligible for sealing and the court should have held a hearing and considered the factors set forth in *Chesler v. People*, 309 Ill. App. 3d 145, 151, 722 N.E.2d 668, 673 (1999), an expungement case. Petitioner alleged he had only one felony conviction that occurred over 21 years earlier. In addition to the four misdemeanors cited by the court in its order, petitioner had a 1985 conviction for manufacturing-delivery of marijuana, for which he received court supervision. Petitioner emphasized his misdemeanor criminal history ended over 22 years before. Petitioner argued his circumstances were those intended to be addressed when the General Assembly enacted section 5.2 of the Act (20 ILCS

2630/5.2(c)(2)(F)(iii) (West 2012)).

¶ 7 In August 2012, the trial court held a hearing on petitioner's motion to reconsider. At the hearing, the court noted the sealing statute was permissive and initially denied the petition due to petitioner's prior convictions.

¶ 8 Petitioner, the only witness to testify, was a 46-year-old high-school graduate. He had one felony conviction—a 1991 conviction for unlawful possession of a controlled substance. After his conviction, petitioner made changes in his life. He completed drug rehabilitation. Petitioner also attended an Alcoholics Anonymous (AA) program to obtain his driver's license. He stopped associating with certain friends, and he no longer consumed alcohol or drugs.

¶ 9 Petitioner met his wife, Judy Splittstoesser, in 1991 or 1992. Petitioner owned a home, in which he had resided for about 18 years. Petitioner had two children from his previous marriage and a 19-year-old son with Judy. Petitioner's 19-year-old son continued to reside with petitioner.

¶ 10 According to petitioner, after his felony conviction, he worked low-paying, menial jobs. From 1990 to 1997, petitioner worked at Starcrest Dry Cleaners and Manpower. He also cleaned a bank at night. In 1997, petitioner began working with Rantoul Products, doing car assembly. Around 2006, Rantoul Products had financial difficulties and began cutting petitioner's hours. A short time later, Rantoul Products closed its doors. In 2007, petitioner and his wife had to file for bankruptcy. The bankruptcy was later discharged.

¶ 11 Petitioner testified he then attended commercial driver's license (CDL) training and earned a CDL to be a truck driver. In his experience, felonies disqualified applicants for many jobs. A driving-under-the-influence (DUI) conviction also disqualified applicants from

some jobs, but not all. According to petitioner, both a felony and a DUI "doesn't make a very good combination for a truck driver." Petitioner understood his DUI would remain on his record, but testified he did not want to have "two marks working against him," making him a better applicant. Petitioner testified Schneider, Federal Express (FedEx), United Parcel Service (UPS), Walmart, and other companies had a policy of denying employment to individuals with a felony conviction.

¶ 12 Petitioner was able to find work as a CDL driver. He testified many of those companies he would work for required him to be on the road for long periods of time. The first job he had after acquiring his CDL required him to be on the road five weeks at a time. He was home only six times a year for two days a time. This had a detrimental effect on his family.

¶ 13 At the time of the hearing, petitioner worked for Dr. Pepper Snapple of Champaign. After taxes and benefits were withheld, petitioner earned between \$580 and \$630 per week. In this job, there was no opportunity for advancement. Petitioner wanted to work "for a better company." The companies he mentioned before, companies that would not hire felons, offered benefits, additional mileage, and higher pay.

¶ 14 According to petitioner, during the period of 1985 to 1990, he was very angry and had problems. Once he was arrested for DUI and the possession charge, the "consequences [were] catching up to [him]." He did not want to lose his family. He made a choice to change. As a CDL driver, he was subject to drug testing.

¶ 15 Before closing argument, the trial court provided guidance to defense counsel. The court stated the following:

"We're talking about jobs where companies have policies because

of liability reasons and public-safety reasons. All of those are implicated by the issues that are vested in the court as a discretionary matter and why the statute uses the phrase 'may seal.' On the other hand, and the reason I use the phrase cuts both ways, clearly there [are] issues here about the fact that he has rehabilitated himself. Weigh those factors ***."

¶ 16 During closing argument, the State argued it did not know if petitioner was rehabilitated or if it was safe for him to drive a truck. The State told the court petitioner was seeking the opportunity to keep information from a future employer—information a future employer might find useful. The State maintained it did not "think" it "appropriate to seal this record and keep future employers from having information they might find useful."

¶ 17 On August 21, 2012, by docket entry, the trial court denied petitioner's motion to reconsider. This appeal followed.

¶ 18 II. ANALYSIS

¶ 19 Petitioner argues the trial court abused its discretion because no legitimate reason supports the denial. Petitioner maintains the sealing provisions were enacted to provide citizens with older, lower-level felony convictions greater opportunities for employment. Petitioner emphasizes, since 1991, his record contains no further felonies or misdemeanors. Petitioner points to a lengthy marriage, a stable home, and his employment history, as well as unrefuted testimony the sealing would result in better employment options. Petitioner also contends it was improper for the court to consider potential employers' interests because, in enacting the sealing provisions, the General Assembly determined future employers were not entitled to such

information.

¶ 20 Section 5.2(c) of the Act provides adults a means for having certain arrests and convictions hidden from their criminal records through a "sealing." When a record is sealed, the records are physically and electronically maintained, but such records are unavailable to potential employers and others absent a court order. See 20 ILCS 2630/5.2(a)(1)(K) (West 2012).

Requests made for records sealed under section 5.2(c) must be answered with the same response given "when no records ever existed." 20 ILCS 2630/5.2(d)(9)(C) (West 2012).

¶ 21 As evident by the terms of the Act, the purpose of the sealing remedy is to provide individuals who served their sentences greater employment opportunities. Section 5.2(a)(1)(K) and sections 12 and 13 show sealed records are unavailable to employers, except when a law or regulation mandates an inquiry into one's criminal records. See 20 ILCS 2630/5.2(a)(1)(K) (West 2012); see also 20 ILCS 2630/12 & 13 (West 2012) (stating courts, law-enforcement agencies, the Department of Corrections, and employers required by law to run a background check continue to have access to sealed information). The parties agree no such law or regulation mandates background checks for CDL applicants. Moreover, section 13 refers to a statute that makes an employer's use of sealed information in denying employment or employment advancement a civil-rights violation: "[I]t is a civil rights violation for any employer, employment agency or labor organization to inquire into or use the fact of an arrest or criminal history record information ordered *** sealed *** under Section 5.2 of the [Act] as a basis to refuse to hire" an individual. 775 ILCS 5/2-103(A) (West 2012).

¶ 22 To obtain the remedy of sealing, a petitioner must satisfy certain statutory prerequisites. One must have an arrest and conviction eligible for sealing. These include arrests

