

PACKET B: ARRESTED AND A CASE FILED WITH THE COURT, BUT LATER CHARGE(S) WERE DISMISSED OR ACQUITTED

Use the case number associated with the court for this charge. There is **no** filing fee charged by the court for this type of set aside. The arrest record is listed on the criminal history record.

OVERVIEW:

Things you will need to complete this process:

- ✓ **Determine your eligibility. Carefully read ORS 137.225.**
- ✓ **Prepare your forms and get a complete set of your fingerprints.**
- ✓ **File the Original forms with the Polk County Circuit Court.**
- ✓ **Deliver copies of your forms and fingerprint card to the District Attorney's Office.**

ELIGIBILITY:

You will need to determine if your arrest is eligible to be set aside. For eligibility refer to Oregon Revised Statutes ORS 137.225.

PRIOR TO FILING:

Fingerprints:

You only need one fingerprint card regardless of the number of cases you are filing at the time.

Fingerprint cards may be obtained Monday through Friday from 8 a.m. to 4:30 p.m. at the Oregon State Police Bureau of Criminal Identification located at 3565 Trelstad Avenue SE, Salem, Oregon. There is a fee for this service. Call (503) 378-3070 to verify the schedule and fee amount.

The fingerprint card should contain the notation "Motion for Setting Aside Arrest Record."

Forms:

You must submit the original Motion, Affidavit and Order to the Polk County Circuit Court, 850 Main Street, Dallas, Oregon 97338. You must prepare separate documents for each arrest.

Sign all documents where your signature is required. **You must sign the affidavit in the presence of a Notary Public or a Court Clerk.**

NOTE: You can find case information via the public kiosks located at the Polk County Circuit Court, 850 Main Street, Dallas, Oregon 97338.

Copies:

Make two copies of the forms. One to serve to the District Attorney's Office. One for your records.

Service on the District Attorney:

A copy of the Motion, Affidavit and Order along with the original fingerprint card must be served to the District Attorney's Office located at 850 Main Street #201, Dallas, Oregon 97338.

WHAT HAPPENS NOW?

The District Attorney's office will forward the fingerprint card to the State Identification Bureau to confirm your identity. It will also be used to determine if there have been any other incidents that would cause them to want to object to your request.

The District Attorney's office will then file an Answer to your Motion and send a copy to you or your attorney. If the District Attorney's office objects to your motion and/or the victim so requests, the Court will set a hearing. You will receive notice of the hearing and you must attend. The Court will rule on your motion at the hearing. If the District Attorney's office does not object to your motion, the Court issue an Order granting your motion without a hearing. A copy of the Order will be provided to you or your attorney. If the Order is granted, copies will be sent to the agencies that have your arrest record(s). (The court has no control over the agency timeline to get the arrest removed.) The Order will include the Court file to be sealed.

NOTE: If the motion is granted, the Oregon State Police will seal your record but only as to the crimes listed in your motion. It is recommended you obtain your current criminal history from the Oregon State Police so your motion includes all of the crimes for which you were arrested and charged.

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF POLK

STATE OF OREGON,)	
	)	Case No. _____
Plaintiff,)	
)	
vs	)	MOTION FOR ORDER TO SET ASIDE
	)	AND SEAL ARREST
_____)	
Defendant.)	

Comes now the Defendant in this matter, and respectfully moves the Court for an Order setting aside and sealing the **arrest** records in the following matter.

Full Name: _____ Date of Birth: _____

List all charges related to arrest or citation to be set aside (one incident per Motion). Attach additional sheet if necessary.

Arrest/Charge	Arrest Date	Agency

This motion is based on ORS 137.225, the records and files contained herein, and the attached affidavit.

Date: _____ Signature: _____

Prepared by:

Name: _____

Address: _____

City/State/Zip: _____

Phone: _____

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF POLK

STATE OF OREGON,)	
	)	Case No. _____
Plaintiff,)	
	)	AFFIDAVIT IN SUPPORT OF MOTION
vs	)	TO SET ASIDE AND SEAL ARREST;
	)	CERTIFICATE OF SERVICE
_____)	
Defendant.)	

I, _____, do hereby depose and say that:

1. I am the Defendant in the above entitled matter. I submit this Affidavit in support of my Motion to Set Aside and Seal Arrest.
2. A copy of this Affidavit along with the Motion to Set Aside and Seal Arrest has been served on the District Attorney of Polk County.
3. A complete set of my fingerprints has been served on the District Attorney of Polk County.
4. I have been acquitted of all charges contained in the case or they have been dismissed by the Court.
5. My acquittal on these charges and/or their dismissal by the Court resolves all the charges that I am requesting to have set aside.
6. I have not been arrested for any other offense with in the three (3) year period immediately preceding the filing of this motion.
7. I have no criminal convictions in the ten (10) year period immediately preceding the filing of this motion, excluding motor vehicles violations.
8. I have not had a conviction set aside within the ten (10) year period immediately preceding the filing of this Motion and have no other similar motions pending in this or any other court.
9. I am not now charged with the alleged commission of any crime.

Date: _____ Signature: _____

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 20_____.

Deputy Clerk of the Court / Notary Public of Oregon
My Commission Expires: _____

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF POLK

STATE OF OREGON,)	
	)	Case No. _____
Plaintiff,)	
	)	ORDER TO SET ASIDE
vs	)	AND SEAL ARREST
)	
_____)	
Defendant.)	

This matter having come before the court on the Defendant's Motion for Order to Set Aside and Seal Arrest in the following matter:

Full Name: _____ Date of Birth: _____

FBI Number: _____ SID Number: _____

List all charges related to arrest or citation to be set aside. Attach additional sheet if necessary.

Arrest/Charge	Arrest Date	Agency

The State of Oregon having appeared by and through the District Attorney for Polk County. The Court, having reviewed the records and being fully advised, finds the following:

1. A certified copy of the Defendant's Motion, Affidavit and complete set of fingerprints were served on the District Attorney for Marion County.
2. The Department of the State Police has made positive identification of this Plaintiff.
3. The circumstances and behavior of the Plaintiff since the date of arrest warrant setting aside the arrest.

IT IS HEREBY ORDERED that:

1. The above **ARREST** is set aside;
2. The records of the arrest in this case shall be sealed, together with the other official Court records in this case; including the arrest resulting in the criminal proceeding;
3. The Clerk of the Court is directed to forward a certified copy of this Order to the arresting agency named above and all other appropriated criminal justice agencies. The public agencies receiving a copy of this Order shall seal their records and order the arresting agency to seal its records.