

## **Situation C: Arrested and Convicted of charge(s)**

### **PRIOR TO FILING**

You may download the forms needed to complete this process. They are also available for purchase at the Yamhill County Courthouse. Ask for "Set Aside Packet C." You may use these forms as examples to create your own, you may purchase forms at a stationery store, or use these to file your request. There are three forms in this packet, a motion, an affidavit and a proof of service.

**Fingerprints** - You will need to provide a complete set of your fingerprints. Most police agencies offer this service for a fee. The Yamhill Co. Sheriff performs this service every Monday and Thursday, 10 am to 4 pm. Please check with the Yamhill Co. Sheriff Office for specific fees. The fingerprint card should contain the notation, "Motion for setting aside arrest record."

### **FILING YOUR PAPERS**

**Forms** - Complete the forms and have your signature on the Affidavit notarized or the Court Clerk may witness your signature. Do not sign the Affidavit until you are in the presence of a Notary or the Court Clerk. You will need to present a photo ID. Complete all the information on the Motion and the Affidavit. Use the case number in the previously filed criminal case on your forms. There is a required filing fee to the court for each case you are requesting to set aside. Go to [www.courts.oregon.gov](http://www.courts.oregon.gov) to get the current filing fee.

**Copies** - In addition to the original forms that you will file with the Court, you are required to serve (give) the District Attorney's Office a copy of the Motion and the Affidavit that you are filing with the Court. When you have completed the forms, make a copy of the Motion and the signed and witnessed Affidavit. You may wish to make a copy for yourself as you will be filing the originals with the Court.

**Service on the DA** - When you have a complete set of your fingerprints, completed the forms, and made copies, take the District Attorney copies to their office located in the Yamhill County Courthouse. With their copies, you will also provide the set of your fingerprints and a copy of the receipt showing proof of the filing fee paid. There is an \$80 fee required payable to the Department of State Police for each case you are requesting to set aside, the fee must be made in the form of a certified check or money order.

Complete the *Certificate of Service* and file with the court.

### **WHAT HAPPENS NOW?**

A hearing will be scheduled approximately 90 days from the date your Motion is filed.

The District Attorney has a right to object to your request to have the records of your arrest set aside. They will send your fingerprints to the State Identification Bureau to confirm your identity and to see if there have been any other incidents that would cause them to want to object to your request. When the State Identification Bureau has completed their investigation, they will send the results back to the District Attorney and the Court. This process can take up to six months to complete.

If the District Attorney's Office objects to your Motion, your appearance at the hearing will be required. **If you fail to appear at the scheduled hearing, your Motion may be denied or dismissed.** At the hearing the judge will decide whether or not your record(s) can be sealed.

If the District Attorney's Office has no objection to your Motion, the hearing will be cancelled. The District Attorney will prepare an Order and forward to the Judge for review. The Court will then decide, based on the information, whether to grant or deny your request. If the Court grants your request, a Judge will sign the Order and order that copies of it be sent to those agencies that have your arrest records. The Court will also order that the Court file be sealed. You will be notified if the Court denies your request.

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE TWENTY-FIFTH JUDICIAL DISTRICT

STATE OF OREGON,	)	
	)	MOTION TO SET ASIDE CONVICTION
Plaintiff,	)	AND SEAL RECORDS OF ARREST
v.	)	
	)	Case No. _____
_____ ,	)	
Defendant.	)	

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

This Motion is based upon the record herein and upon the attached Affidavit.

**I hereby declare that the above statements are true to the best of my knowledge and belief. I understand they are made for use as evidence in court and I am subject to penalty for perjury.**

Dated:\_\_\_\_\_.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (printed) (*current name*)

\_\_\_\_\_  
*Date of Birth*

\_\_\_\_\_  
Contact Address

\_\_\_\_\_  
City, State,

\_\_\_\_\_  
ZIP

\_\_\_\_\_  
Contact Phone

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE TWENTY-FIFTH JUDICIAL DISTRICT

STATE OF OREGON,

Plaintiff,

v.

Defendant.

) AFFIDAVIT IN SUPPORT OF MOTION  
) TO SET ASIDE CONVICTION AND SEAL  
) RECORDS OF ARREST  
)  
)

) Case No. \_\_\_\_\_

I, \_\_\_\_\_, do hereby depose and say that:

I am the Defendant herein, and I am filing this Affidavit in Support of my Motion to Set Aside Conviction and to seal the records of my arrest.

This conviction occurred more than three (3) year ago. I have no criminal cases presently pending against me in any court. I have no criminal convictions in the ten (10) year period immediately preceding the filing of this motion, excluding motor vehicles violations. I have not had another 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.

I have fully complied with and performed all provisions of the sentence herein.

A copy of this Affidavit and a copy of my Motion to Set Aside Conviction and Seal Records of Arrest have been served upon the District Attorney of Yamhill County.

A complete set of my fingerprints, along with a certified check made payable to the Oregon State Police for their processing costs, has been served on the District Attorney of Yamhill County.

I am not now charged with the alleged commission of any crime.

The arrest that I am seeking to have set aside occurred on \_\_\_\_\_.

The charge(s) that I was arrested for on the above date was (were) \_\_\_\_\_.

Arresting agency and incident number \_\_\_\_\_.

The charge(s) that I was convicted of was (were) \_\_\_\_\_.

The date of my conviction was \_\_\_\_\_.

This conviction was not a Class A felony, or a Class B felony (excluding possession or delivery of a controlled substance).

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature of Defendant

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

\_\_\_\_\_  
Deputy Clerk of Court/Notary Public of Oregon  
My Commission Expires: \_\_\_\_\_

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

State of Oregon,

Plaintiff,

Case No. \_\_\_\_\_

CERTIFICATE OF SERVICE

\_\_\_\_\_,  
Defendant.

I, \_\_\_\_\_, do hereby certify that I have served the foregoing Motion to Set Aside Conviction and Seal Records of Arrest, Affidavit in Support of Motion to Set Aside Conviction and Seal Records of Arrest, and an original full set of defendant's fingerprints on the following party:

YAMHILL COUNTY DISTRICT ATTORNEY'S OFFICE by delivering copies to:

Yamhill County District Attorney,  
Yamhill County Courthouse, 535 NE Fifth St., Room #117  
McMinnville, Oregon 97128

on \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature of Defendant