

Request for Dismissal (Criminal Record Expungement)



Forms

Self-Help Legal Access Centers

Santa Monica

1725 Main St.,
Room 210
Santa Monica, CA 90401

Inglewood

1 East Regent St.,
Room 107
Inglewood, CA 90301

Torrance

825 Maple Ave.,
Room 160
Torrance, CA 90503

Long Beach

275 Magnolia Ave.,
Room 3101
Long Beach, CA 90802

Jan. 2024

This guide is designed to help you fill out the forms yourself. It is not intended to provide legal advice nor strategy as to how to complete the case. The information provided in this packet only presents options and examples. This is not a substitute for professional legal advice from an attorney.

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: EMAIL ADDRESS:		STATE BAR NUMBER: STATE: ZIP CODE: FAX NO.:	FOR COURT USE ONLY
ATTORNEY FOR (name): <u>Self-Represented</u>			
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE:			
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:		CASE NUMBER:	
PETITION FOR DISMISSAL (Pen. Code, §§ 17(b), 17(d)(2), 1203.4, 1203.4a, 1203.41, 1203.42, 1203.43, 1203.49)		FOR COURT USE ONLY DATE: TIME: DEPARTMENT:	

Note to petitioner: Your conviction may have already been automatically dismissed by the California Department of Justice (DOJ) under Penal Code section 1203.425. If so, this petition may be unnecessary—but there may be additional benefits to filing it with the court, including felony reduction under Penal Code section 17(b). If you want to know if your conviction has already been dismissed, you can request your Record of Arrest and Prosecution (RAP) sheet from the DOJ, but this is not required.

1. On (date): _____, the petitioner (the defendant in the above-entitled criminal action) was convicted of a violation of the following offenses or was granted deferred entry of judgment for the following offenses:

Code (Penal, Vehicle, etc.)	Section	Type of offense (felony, misdemeanor, or infraction)	Eligible for reduction to misdemeanor under Penal Code, § 17(b) (yes or no)	Eligible for reduction to infraction under Penal Code, § 17(d)(2) (yes or no)

If additional space is needed for listing offenses, use *Attachment to Judicial Council Form* (form MC-025).

2. **Felony or misdemeanor with probation granted (Pen. Code, § 1203.4)**

Probation was granted on the terms and conditions stated in the docket of the above-entitled court; the petitioner is not serving a sentence for any offense, on probation for any offense, or currently charged with committing any crime, and the petitioner (*check all that apply*)

- a. has fulfilled the conditions of probation for the entire period thereof.
- b. has been discharged from probation prior to the termination of the period thereof.
- c. should be granted relief in the interests of justice. (*Please note: You may explain why granting a dismissal would be in the interests of justice. You can provide that information by writing in the space below, or by attaching a letter or other relevant documents. If you need more space for your writing, you can use Attachment (form MC-025) or Attached Declaration (form MC-031) (which is signed under penalty of perjury) and attach it to this petition.*)

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3. **Misdemeanor or infraction with sentence other than probation (Pen. Code, § 1203.4a)**

Probation was not granted; more than one year has elapsed since judgment was pronounced. Petitioner has complied with the sentence of the court and is not serving a sentence for any offense or currently charged with committing any crime; and the petitioner (*check one*)

- a. has lived an honest and upright life since pronouncement of judgment and conformed to and obeyed the laws of the land; **or**
- b. should be granted relief in the interests of justice. (*Please note: You may explain why granting a dismissal would be in the interests of justice. You can provide that information by writing in the space below or by attaching a letter or other relevant documents. If you need more space for your writing, you can use Attachment (form MC-025) or Attached Declaration (form MC-031) (which is signed under penalty of perjury) and attach it to this petition.*)

4. **Misdemeanor conviction under Penal Code section 647(b) (Pen. Code, § 1203.49)**

Petitioner has completed a term of probation for a conviction under Penal Code section 647(b) and should be granted relief because the conviction was the result of petitioner's status as a victim of human trafficking.

(*Please provide evidence that the conviction was the result of your status as a victim of human trafficking. You can provide that information by writing in the space below or by attaching a letter or other relevant documents. If you need more space for your writing, you can use Attachment (form MC-025) or Attached Declaration (form MC-031) (which is signed under penalty of perjury) and attach it to this petition.*)

5. **Felony county jail sentence under Penal Code section 1170(h)(5) or felony state prison sentence (Pen. Code, § 1203.41)**

Petitioner is not on parole or under supervision under Penal Code section 1170(h)(5)(B); is not serving a sentence for, on probation for, or currently charged with committing any crime; and should be granted relief in the interests of justice, and (*check one*)

- a. more than one year has elapsed since petitioner completed the felony county jail sentence **with** a period of mandatory supervision imposed under Penal Code section 1170(h)(5)(B).
- b. more than two years have elapsed since petitioner completed the felony county jail sentence **without** a period of mandatory supervision imposed under Penal Code section 1170(h)(5)(A).
- c. more than two years have elapsed since petitioner completed the felony state prison sentence, and the conviction did not result in a requirement to register as a sex offender under Chapter 5.5 (starting with section 290) of Title 9 of Part 1 of the Penal Code.

(*Please note: You may explain why granting a dismissal would be in the interests of justice. You can provide that information by writing in the space below or by attaching a letter or other relevant documents. If you need more space for your writing, you can use Attachment (form MC-025) or Attached Declaration (form MC-031) (which is signed under penalty of perjury) and attach it to this petition.*)

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6. **Felony prison sentence that would have been eligible for a felony county jail sentence after 2011 under Penal Code section 1170(h)(5) (Pen. Code, § 1203.42)**

Petitioner is not under supervision and is not serving a sentence for, on probation for, or currently charged with committing any crime; more than two years have elapsed since petitioner completed the felony prison sentence; and petitioner should be granted relief in the interests of justice.

(Please note: You may explain why granting a dismissal would be in the interests of justice. You can provide that information by writing in the space below or by attaching a letter or other relevant documents. If you need more space for your writing, you can use Attachment (form MC-025) or Attached Declaration (form MC-031) (which is signed under penalty of perjury) and attach it to this petition.)

7. **Deferred entry of judgment (Pen. Code, § 1203.43)**

Petitioner performed satisfactorily during the period in which deferred entry of judgment was granted. The criminal charge(s) were dismissed under former Penal Code section 1000.3 on (date): . Furthermore (check one),

- a. court records are available showing the case resolution; **or**
 - b. petitioner declares under penalty of perjury that the charges were dismissed after petitioner completed the requirements for deferred entry of judgment. Petitioner (check one)
 - (1) has
 - (2) has not
- attached a copy of petitioner's state summary criminal history information.

8. Petitioner requests that the eligible felony offenses listed above be reduced to misdemeanors under Penal Code section 17(b) and eligible misdemeanor offenses be reduced to infractions under Penal Code section 17(d)(2).

9. Petitioner requests that petitioner be permitted to withdraw the plea of guilty, or that the verdict or finding of guilt be set aside and a plea of not guilty be entered and the court dismiss this action under the Penal Code section(s) noted above.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF PETITIONER OR ATTORNEY)

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: EMAIL ADDRESS:		STATE BAR NUMBER: STATE: ZIP CODE: FAX NO.:	<i>FOR COURT USE ONLY</i>
ATTORNEY FOR (name): Self-Represented			
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles			
STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE:			
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:			
ORDER FOR DISMISSAL (Pen. Code, §§ 17(b), 17(d)(2), 1203.4, 1203.4a, 1203.41, 1203.42, 1203.43, 1203.49)		CASE NUMBER:	

From the petition filed in this matter, the records of the court, and any other evidence presented in this matter, the court orders as follows:

1. The court **GRANTS** the petition for reduction of a felony to a misdemeanor (maximum punishment of 364 days per Pen. Code, § 18.5) under Penal Code section 17(b) and/or for reduction of a misdemeanor to an infraction under Penal Code section 17(d)(2) and reduces
 - a. ALL FELONY CONVICTIONS in the above-entitled action.
 - b. ALL MISDEMEANOR CONVICTIONS in the above-entitled action.
 - c. only the following convictions in the above-entitled action (*specify charges and date of conviction*):
2. The court **DENIES** the petition for reduction of a felony to a misdemeanor under Penal Code section 17(b) and/or for reduction of a misdemeanor to an infraction under Penal Code section 17(d)(2) for
 - a. ALL FELONY CONVICTIONS in the above-entitled action.
 - b. ALL MISDEMEANOR CONVICTIONS in the above-entitled action.
 - c. only the following convictions in the above-entitled action (*specify charges and date of conviction*):
3. The court **GRANTS** the petition for dismissal regarding the following convictions under Penal Code (*check all that apply*)
 § 1203.4 § 1203.4a § 1203.41 § 1203.42 § 1203.43 § 1203.49
 and it is ordered that the pleas of guilty or nolo contendere or verdicts or findings of guilt be set aside and vacated and a plea of not guilty be entered and that the complaint or information be, and is hereby, dismissed for (*check one*)
 - a. ALL CONVICTIONS OR PLEAS FOR DEFERRED ENTRY OF JUDGMENT in the above-entitled action.
 - b. only the following convictions or pleas for deferred entry of judgment in the above-entitled action (*specify charges and date of conviction or plea for deferred entry of judgment*):

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4. The court **DENIES** the petition for dismissal under Penal Code (*check all that apply*)
 § 1203.4 § 1203.4a § 1203.41 § 1203.42 § 1203.43 § 1203.49 for (*check one*)
 a. ALL CONVICTIONS OR PLEAS FOR DEFERRED ENTRY OF JUDGMENT in the above-entitled action.
 b. only the following convictions or pleas for deferred entry of judgment in the above-entitled action (*specify charges and date of conviction or plea for deferred entry of judgment*):
5. In granting this order under the provisions of Penal Code section 1203.49, the court finds that the petitioner was a victim of human trafficking when petitioner committed the crime.
 a. The court orders (*check one*):
 (1) the relief described in section 1203.4.
 (2) the relief described in section 1203.4, with the following exceptions (*specify*):
 b. The Department of Justice is hereby notified that petitioner was a victim of human trafficking when petitioner committed the crime, and notified of the relief ordered.
6. If this order is granted under the provisions of Penal Code section 1203.4, 1203.41, or 1203.42,
 a. the petitioner is required to disclose the above conviction in response to any direct question contained in any questionnaire or application for public office, or for licensure by any state or local agency (or, under Penal Code section 1203.41, for licensure by a federally recognized tribe or for enrollment as a provider of in-home supportive services and "waiver personal care services" (see Welf. & Inst. Code, §§ 12300–12318, 14132.95, 14132.952, 14132.956, 14132.97)), or for contracting with the California State Lottery Commission; and
 b. dismissal of the conviction does not automatically relieve petitioner from the requirement to register as a sex offender. (See, e.g., Pen. Code, § 290.5.)
7. If this order is granted under the provisions of Penal Code section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.49, the petitioner is released from all penalties and disabilities resulting from the offense except as provided in Penal Code sections 29800 and 29900 (formerly sections 12021 and 12021.1) and Vehicle Code section 13555. In any subsequent prosecution of the petitioner for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if probation had not been granted or the accusation or information dismissed. The dismissal does not permit a person to own, possess, or have in their control a firearm if prevented by Penal Code section 29800 or 29900 (formerly sections 12021 and 12021.1). Dismissal of a conviction does not permit a person prohibited from holding public office as a result of that conviction to hold public office.
8. Dismissal under Penal Code section 1203.4 or 1203.4a does not release petitioner from the terms and conditions of any unexpired criminal protective order issued under Penal Code section 136.2(i)(1), 273.5(j), 368(l), or 646.9(k).
9. In addition, as required by Penal Code section 299(f), relief under Penal Code section 17(b), 17(d)(2), 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.49 does not release petitioner from the separate administrative duty to provide specimens, samples, or print impressions under the DNA and Forensic Identification Database and Data Bank Act (Pen. Code, § 295 et seq.) if petitioner was found guilty by a trier of fact, not guilty by reason of insanity, or pled no contest to a qualifying offense as defined in Penal Code section 296(a).
10. The basis for an order of dismissal granted under the provisions of Penal Code section 1203.43 is the invalidity of petitioner's prior plea due to misinformation in former Penal Code section 1000.4 regarding the actual consequences of making a plea and successful completion of a deferred entry of judgment program.
11. Notice: Except as provided in Penal Code section 1203.425(a)(4), if this order is granted under Penal Code section 1203.4, 1203.4a, 1203.41, or 1203.42, the court must not disclose information concerning a conviction granted relief to any person or entity, in any format, except to the person whose conviction was granted relief or to a criminal justice agency.

Date:



(JUDICIAL OFFICER)

Clerk stamps date here when form is filed.

Instructions

- 1 Before using this form, read *Information on How to File a Proof of Service in Criminal Record Clearing Requests* (form CR-106-INFO).
- 1 This form is only for providing proof that a document or form was served (delivered) in a case requesting that a court review a criminal record for dismissal, vacatur, resentencing, reduction, sealing, or other **record clearing remedy**.
- 1 The person who serves (delivers) a document or form in this case and who fills out this form must be at least 18 years old.
- 1 This form is for proof of service by mail or personal delivery. For proof of electronic service, use *Proof of Electronic Service* ([form POS-050/EFS-050](#)).
- 1 A completed form should be filed with the court. Keep a copy of this form for your records.

1 At the time I served the document or form listed below, I was at least 18 years old.

2 My home business address is:

Street _____ City _____ State _____ Zip _____

3 I mailed or personally delivered the following document or form (*fill in the name of the document you are serving and complete (4) or (5)*):

4 Service by mail 

- (a) I put one copy of the document or form in an envelope addressed to each agency (and person, if applicable) listed below, sealed the envelope, and put first-class postage on the envelope.
- (b) The envelope or envelopes were addressed as follows:
 - (1) Name of agency served (and person, if applicable):
Address on envelope: _____ Street _____ City _____ State _____ Zip _____

- (2) Name of agency served (and person, if applicable):
Address on envelope: _____ Street _____ City _____ State _____ Zip _____

Check here if you mailed copies of the document or form to more people or agencies. Attach a separate page listing the names and addresses on each additional envelope you mailed. Write "CR-106, Item 4" on the top of the page.

- (c) I mailed the envelope or envelopes on (date): _____ from (city): _____ (state): _____ by depositing the envelope or envelopes (check one):
 - (1) With the U.S. Postal Service.
 - (2) At an office or business mail drop where I know the mail is picked up every day and deposited with the U.S. Postal Service.

Fill in court name and street address:

**Superior Court of California, County of
LOS ANGELES**

Fill in criminal case number and case name:

Case Number: _____

Case Name:
People of the State of California
v. _____

**5 Service by Personal Delivery**

I personally gave one copy of the document or form to each of the following:

(a) Name of person and agency served:

(1) Address where you gave the document or form to this person:

Street _____ City _____ State _____ Zip _____

(2) Date when you gave the document or form to this person:

(3) Time when you gave the document or form to this person:

(b) Name of person and agency served:

(1) Address where you gave the document or form to this person:

Street _____ City _____ State _____ Zip _____

(2) Date when you gave the document or form to this person:

(3) Time when you gave the document or form to this person:

Check here if you gave copies of the document or form to more people. Attach a separate page listing the names of each of these people, the address where you gave each of them the document or form, and the date and time you gave them the document or form. Write "CR-106, Item 5" on the top of the page.

6 I declare under penalty of perjury under California state law that the information above is true and correct.

Date: _____

Type or print server's name



Server signs here after serving