

PETITION FOR DISMISSAL UNDER PENAL CODE §§ 17(B); 17(D)(2); 1203.4; 1203.4A; 1203.41; 1203.42; 1203.43 AND 1203.49

SELF-HELP FORM PACKET



SHC-CRIM-01 (Rev. 01/12/2024)

Self-Help Services can review your completed forms before you file them with the Court. To request review of your completed forms:

1. Complete the attached forms in black ink.
2. Scan your completed forms and save as a single PDF file.
3. Go to www.occourts.org/self-help (click the button labeled *Contact Self-Help*), attach the PDF, and complete the online request form. Make sure to select CRIMINAL/TRAFFIC as the case type on the form.

INSTRUCTIONS FOR FILLING OUT A PETITION FOR DISMISSAL (SHC-CRIM-01)

STEP 1: HAVE YOUR CASE INFORMATION AVAILABLE

Review your case file to gather the information listed below. If you do not have your case file, you can print a free summary of your case at: <https://www.occourts.org/online-services/case-access/>.

Information Needed:

1. Date of Conviction or Disposition
2. Type of Violation (Code and Section number) e.g., PC 487(a), VC 23152(a) or HS 11357
3. Type of Offense (felony, misdemeanor or infraction)
4. Whether your case is eligible for reduction from felony to misdemeanor or from misdemeanor to infraction.

STEP 2: DETERMINE IF YOU ARE ELIGIBLE

Type of Offense	Requirements
Felony or misdemeanor with probation	<ul style="list-style-type: none">• Fulfilled all conditions of probation or discharged from probation before period ended• Not currently serving a sentence for any offense, on probation or charged with commission of any crime• Can file any time after termination of probation
Misdemeanor or infraction, not granted probation	<ul style="list-style-type: none">• Not granted probation and complied with sentence of the court• Not serving sentence for any offense or charged with commission of any crime• Has lived an honest and upright life since judgment and obeyed laws of the land or should be granted relief in the interests of justice• Can file after one year since the date of judgment
Misdemeanor under PC 647(b)	<ul style="list-style-type: none">• Completed probation for conviction of solicitation or prostitution• Can show by clear and convincing evidence that conviction was because you were a victim of human trafficking
Felony county jail sentence under PC 1170(h)(5)	<ul style="list-style-type: none">• Not under supervision• Not serving sentence, on probation or charged with commission of any offense• > 1 year since felony county jail sentence with mandatory supervision by county probation officer (split sentence)• > 2 years since felony county jail sentence without mandatory supervision (straight sentence in custody)
Felony prison sentence that would've been eligible for felony county jail sentence after 2011	<ul style="list-style-type: none">• Not under supervision• Not serving sentence, on probation or charged with commission of any offense• > 2 years since felony prison sentence completed
Deferred entry of judgment	<ul style="list-style-type: none">• Performed satisfactorily during period of deferred entry of judgment• Criminal charges were dismissed

STEP 3: FILL OUT FORMS CR-180 AND CR-181

CR-180

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: Write your full name as shown in the case file, your current address and contact information. FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER: STATE: ZIP CODE: FAX NO.:	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE:		
PEOPLE OF THE STATE OF CALIFORNIA V. DEFENDANT: Write your name as shown in your case		CASE NUMBER: Write your case number
PETITION FOR DISMISSAL <i>(Pen. Code, §§ 17(b), 17(d)(2), 1203.4, 1203.4a, 1203.41, 1203.42, 1203.43, 1203.49)</i>		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)
E.g. PC	E.g. 484(a)	Misdemeanor	Y/N	Y/N
		Write the conviction date or deferred date of entry of judgment found in your case summary		

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.*)

Read sections 2 through 7 and only check the boxes that apply to your situation. Likely, you will check one box and leave the rest blank. Review as possible applicable sections.

Check box #2 if you were convicted of a felony or misdemeanor and granted probation. Check a, b or c, as applicable. If you did not complete probation successfully or were not discharged early from probation, then check box "c." You may write a declaration (form MC-031) explaining why a dismissal would be in the interests of justice. Please see attached Sample Declaration. You may also include letters of reference, certificates of completion or any other relevant documents that support your request for a dismissal.

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PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT: Write your full name as shown in the case file	CASE NUMBER: Write your Case Number
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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.*)

Check box #3 only if you were convicted of a misdemeanor or infraction and not granted probation and check a or b, as applicable.

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.*)

Check box #4 only if you have clear and convincing evidence that your conviction for solicitation or prostitution was the result of your status as a victim of human trafficking.

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.*)

Check box #5 only if you served a felony county jail sentence under PC 1170(h)(5). If you were sentenced to county jail with mandatory supervision and more than a year has elapsed since you completed your sentence, then check "a."

If you were sentenced to county jail without mandatory supervision and more than two years have elapsed since you completed your sentence, then check "b." You may complete a declaration (form MC-031) where you explain why granting a dismissal would be in the interests of justice.

Please see attached Sample Declaration. You may also include letters of reference, certificates of completion or any other relevant documents that support your request for a dismissal.

PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT: Write your full name as shown in the case file	CASE NUMBER: Write your Case Number
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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.)

Check box #6 only if you were sentenced to state prison, but you would have been eligible for a felony county jail sentence after 2011. You can explain why your petition should be granted in the interests of justice. Please see attached Sample Declaration. You may also include letters of reference, certificates of completion or any other relevant documents that support your request for a dismissal.

Check box #7 only if you successfully completed a deferred entry of judgment program and check a or b, as applicable.

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: Write today's date

(TYPE OR PRINT NAME)

(SIGNATURE OF PETITIONER OR ATTORNEY)

PLAINTIFF/PETITIONER: People of the State of California v.	CASE NUMBER:
DEFENDANT/RESPONDENT:	

THINGS TO CONSIDER BEFORE WRITING YOUR DECLARATION

(This form must be attached to another form or court paper before it can be filed in court.)

The declaration is your chance to present your statement and evidence to convince the judge that you deserve a dismissal.

Here are some ideas that you can include in your declaration:

1. Explain the basic information about your conviction and sentence. Tell the judge why your conviction meets the requirements for dismissal.
2. Explain why granting your dismissal would be "in the interests of justice"— meaning why you deserve to have your conviction dismissed, and how the dismissal will help you succeed in the future.
 - a. Here are some examples of things you may want to talk about (but only if they are true for your situation):
 - i. If there were circumstances that made your life especially difficult at time of your conviction;
 - ii. How you are turning your life around;
 - iii. Your work and/or school history (including any vocational training, GED or other classes, and other programs you've participated in);
 - iv. Current opportunities for work, school, and other activities to enrich your life, and how dismissal will help you take advantage of these opportunities;
 - v. Your family situation and needs, and how a dismissal will help you reconnect with, support, or otherwise benefit your family; and
 - vi. Any problems you have had completing probation, and what you are doing to address those problems.

You should be specific and honest, and include as many details as possible to give the judge a clear picture of what happened. But you should not include irrelevant or unnecessary information that might distract the judge.

You may also include letters of reference, certificates of completion or any other relevant documents.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

SAMPLE ONLY: DO NOT FILE THIS PAGE

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

Attorney for Plaintiff Petitioner Defendant
 Respondent Other (Specify): _____

Next, on form CR-181, fill out the information in the top boxes of page 1 and page 2. Write your full name as shown in your case file, your current address and contact information, Date of Birth and Case Number.

Do not fill out the information below the boxes, as the court will fill out the rest of the form to make orders.

CR-181

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER: Write your full name as shown in the case file, your current address and contact information.	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE:		
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT: Write your name as shown in the case		
ORDER FOR DISMISSAL (Pen. Code, §§ 17(b), 17(d)(2), 1203.4, 1203.4a, 1203.41, 1203.42, 1203.43, 1203.49)		CASE NUMBER: Write your 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:

****Leave the rest of this page blank****

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*):

PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:
Write your full name as shown in the case file

CASE NUMBER:

Write your case number

4. The court **DENIES** the petition for dismissal under Penal Code (*check all that apply*) ****Leave the rest of this page blank****
 § 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.

FOR COURT USE ONLY

Date:



(JUDICIAL OFFICER)

STEP 4: SERVE THE DISTRICT ATTORNEY'S OFFICE

Make two copies of your completed CR-180 and attachments. You may bring your completed forms in person to the District Attorney's Office and have them stamp-receive a service copy. Alternatively, have someone else, other than you, who is over the age of 18, serve 1 copy to the District Attorney's Office by mail. The adult that served the District Attorney's Office must complete a Proof of Service form (**form CR-106**).

STEP 5: FILE YOUR DOCUMENTS You should have an original and a copy of the completed CR-180 (with attachments) and CR-181. Make a copy of the completed Proof of Service (form CR-106), which was signed by the person who served the copies to the DA's office, and gather all the forms to file with the court.

To file in person, go to Criminal Clerk's office at the Justice Center where your case was filed. Present the original and the copies. The clerk will stamp both sets of documents. The original will remain with the court and a conformed copy will be returned to you for your own records.

Or, you could file by mail, by sending your documents to the court, addressing the envelope to the Justice Center as the recipient. To ensure that the conformed copies will be returned to you, include a self-addressed stamped envelope in your package, so that the clerk can send your copies after filing your original documents.

STEP 6: WAIT FOR A RULING OR FOR A HEARING DATE TO BE SET

Once you file your documents, a judge will review your request. Depending on the facts of your case, a judge can approve or deny your request without a hearing. The judge also has the ability to set a hearing. If a hearing is scheduled, it is crucial that you appear on the day of the hearing or the court will likely deny your petition. If your petition is granted, you need to verify that you have paid any fees imposed by the court or you will not receive your certificate.

SHC-CRIM-01 Information Sheet

Your Full Name: _____

Your Street Address: _____

City: _____, State: _____ Zip Code: _____

Your Phone Number: _____

Your E-mail Address: _____

Your Date of Birth (MM/DD/YYYY): _____

Your Court Case Number: _____

Your Violation (Code/Section): _____

Conviction Date (MM/DD/YYYY): _____

Today's Date (MM/DD/YYYY): _____

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER: STATE: ZIP CODE: FAX NO.:	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF 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.*)

PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	CASE NUMBER:
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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.*)

PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:

CASE NUMBER:

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)

PLAINTIFF/PETITIONER: People of the State of California	CASE NUMBER:
DEFENDANT/RESPONDENT:	

SAMPLE DECLARATION

(This form must be attached to another form or court paper before it can be filed in court.)

The declaration is your chance to present evidence to convince the judge that you deserve a dismissal.

Here are some ideas that you can include in your declaration:

1. Explain the basic information about your conviction and sentence. Tell the judge why your conviction meets the requirements for dismissal.
2. Explain why granting your dismissal would be "in the interest of justice"— meaning why you deserve to have your conviction dismissed, and how the dismissal will help you succeed in the future.
 - a. Here are some examples of things you may want to talk about (but only if they are true for your situation):
 - i. If there were circumstances that made your life especially difficult at time of your conviction;
 - ii. How you are turning your life around;
 - iii. Your work and/or school history (including any vocational training, GED or other classes, and other programs you've participated in);
 - iv. Current opportunities for work, school, and other activities to enrich your life, and how dismissal will help you take advantage of these opportunities;
 - v. Your family situation and needs, and how an dismissal will help you reconnect with, support, or otherwise benefit your family; and
 - vi. Any problems you have had completing probation, and what you are doing to address those problems.

You should be specific and honest, and include as many details as possible to give the judge a clear picture of what happened. But you should not include irrelevant or unnecessary information that might distract the judge.

You may also include letters of reference, certificates of completion or any other relevant documents.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

- Attorney for Plaintiff Petitioner Defendant
 Respondent Other (Specify): _____

PLAINTIFF/PETITIONER: People of the State of California	CASE NUMBER:
DEFENDANT/RESPONDENT:	

DECLARATION

(This form must be attached to another form or court paper before it can be filed in court.)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

- Attorney for Plaintiff Petitioner Defendant
 Respondent Other (Specify): _____

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: EMAIL ADDRESS: ATTORNEY FOR (<i>name</i>):	STATE BAR NUMBER: STATE: ZIP CODE: FAX NO.:	<i>FOR COURT USE ONLY</i>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF 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*):

PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:

CASE NUMBER:

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)

1 What does this information sheet cover?

This information sheet tells you how to use and fill out *Proof of Service—Criminal Record Clearing* form CR-106. This information sheet does not need to be copied, served (delivered), or filed.

2 What is proof of service?

- A “proof of service” is a form used in legal cases.
- If you want a judge to look at your case, you or someone who is helping you has to file certain documents in court.
- You also have to give or mail copies of those documents to the other party in the case, usually the prosecutor.
- The proof of service has spaces for you or someone who is helping you to write in when, where, and how the other party got the documents.
- Once the proof of service is filled out and filed with the court, it shows the court that the other party got the documents.

3 What is record clearing?

- Record clearing is a process that allows you to ask a court to improve your criminal record.
- For example, a court may be able to change some convictions from felonies to misdemeanors.
- You can start the process of record clearing by filing certain documents or forms called “applications,” “petitions,” or “motions.”

4 Who do I need to serve when I ask a court to clear my criminal record?

Most record clearing laws say you have to let the prosecuting agency (usually the district attorney) know about the record clearing request. Sometimes you also have to let law enforcement (like the police or sheriff) or other parties know about your request. You can do so by “serving” (delivering) a copy of the papers you filed with the court on the prosecuting agency or other parties. Read the record clearing law you are basing your request on carefully to see who needs to know about your record clearing request. Those are the parties who must be served.

5 Why do I need to file a proof of service?

Filing a proof of service shows the court that you have let the other parties know about the record clearing request by giving them a copy of the document or form you are using to make a record clearing request to the court.

6 When can I use *Proof of Service—Criminal Record Clearing* (form CR-106)?

Proof of Service—Criminal Record Clearing (form CR-106) is intended to be widely used with **any** record clearing request that requires notification or service of the request to the prosecuting agency and other parties, such as the following optional Judicial Council forms for record clearing:

- *Petition for Dismissal* ([form CR-180](#)), dismissals under Penal Code sections 1203.4, 1203.4a, 1203.41, 1203.42, 1203.43, and 1203.49, and reductions under Penal Code sections 17(b) and 17(d)(2)
- *Petition for Dismissal (Military Personnel)* ([form CR-183](#)), dismissals under Penal Code section 1170.9(h), and reductions under Penal Code section 17(b)
- *Motion to Vacate Conviction or Sentence* ([form CR-187](#)), vacating convictions under Penal Code sections 1016.5 and 1473.7
- *Petition/Application (Health and Safety Code, § 11361.8)* ([form CR-400](#)), relief under Proposition 64 for specified marijuana-related convictions
- *Petition/Application for Resentencing and Dismissal* ([form CR-404](#)), resentencing and dismissal under Penal Code section 1170.22
- *Petition to Seal Arrest and Related Records* ([form CR-409](#)), sealing under Penal Code section 851.91
- *Petition for Resentencing Based on Health Conditions From Military Service Listed in Penal Code Section 1170.91(b)* ([form CR-412/MIL-412](#))
- *Petition for Writ of Habeas Corpus* ([form HC-001](#))



7 Who can serve the petition or motion?

- In most cases, the law allows you (the person who is filing the record clearing request) to serve the document or form.
- You can also ask someone else to serve the document or form.
- The person who serves a document or form for record clearing and fills out the *Proof of Service—Criminal Record Clearing* (form CR-106) must be at least 18 years old.
- Read the record clearing law you are basing your request on carefully to see if it sets any other requirements for who can serve the request.

8 When are the other parties served, and when do I file a proof of service?

- Ask the court clerk if any local filing rules apply.
- In most cases, the other parties should be served *after* the original document or form is filed with the court. That way, the court may add helpful information to the document or form, such as a hearing date.
- Some courts require that the document or form is first served on the other parties, and then the original document or form is filed with the court, along with a completed and signed proof of service.
- When you file the document or form with the court, take the original plus at least two copies of your documents.
 - The court will keep the original.
 - The clerk will stamp your copies “Filed” and return them to you. Keep one copy for your records.
 - The other parties can be served with a copy of your court-stamped document or form, and then you should file the proof of service with the court after the parties are served.

9 How should the petition or motion be served?

There are three main ways to serve documents: by **mail**, **personal delivery**, or **electronic service**. *Proof of Service—Criminal Record Clearing* (form CR-106) can be used to prove service by mail or personal delivery.

If serving electronically:

- Do not use *Proof of Service—Criminal Record Clearing* (form CR-106).
- Carefully read and follow the requirements in California Rules of Court, [rule 2.251](#), and use *Proof of Electronic Service* ([form POS-050/EFS-050](#)).

If someone else is serving documents on your behalf, make sure to provide them with the name of the agency that must be served (for example, San Francisco County District Attorney), the agency’s address, and a copy of the document or form.

If serving by mail:

- The server should put one copy of the document or form in an envelope addressed to the agency, seal the envelope, and place first-class postage on the envelope; and
- The server should mail the document or form by depositing the envelope at a post office or mailbox or by depositing the envelope at an office or business mail drop where the server knows mail is picked up every day by the postal service.

If serving by personal delivery:

- The server should give the document or form to a person with the agency and note the name of the person, as well as the address, date, and time of the service.

Once the document or form has been served on the other parties by mail or personal delivery, the server should fill out and sign the proof of service form.

10 What do I do with *Proof of Service—Criminal Record Clearing* (form CR-106) once it is filled out?

You should file a completed proof of service with the court where you filed your document or form. Ask the court clerk if any local filing rules apply.

Clerk stamps date here when form is filed.

Instructions

- Before using this form, read *Information on How to File a Proof of Service in Criminal Record Clearing Requests* (form CR-106-INFO).
- 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**.
- 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.
- 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](#)).
- 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***):
Petition for Dismissal (CR-180)

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.



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