

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

Case No: _____

Plaintiff

v.

Defendant

DOB: _____

SID#: _____

Fingerprint number (FPN #) if known: _____

**MOTION TO SET ASIDE
and DECLARATION IN SUPPORT**
No filing fee

MOTION

I ask the court to set aside the:

- record of arrest with no charges filed
or
 record of arrest with charges filed and the associated: (*check all that apply*)
 conviction
 record of citation or charge that was dismissed/acquitted
 contempt of court finding
 finding of Guilty Except for Insanity (GEI)
-

STATEMENT OF POINTS AND AUTHORITIES

The court may set aside a conviction record or record of arrest, citation, charge, or finding of contempt as provided in ORS 137.225.

The court may set aside a judgment finding a person guilty except for insanity of an offense as provided in ORS 137.223.

DECLARATION IN SUPPORT

- I am not currently charged with a crime
 The arrest or citation I want to set aside is not for a charge of Driving Under the Influence of Intoxicants (DUII) that was dismissed because I completed a diversion program
-

CONVICTION OR FINDING OF CONTEMPT OR GEI

Date of conviction, contempt finding, or judgment of GEI: _____

or

Date of release from prison or supervision by the Psychiatric Security Review Board (PSRB): _____

ORS 137.225 does not prohibit a set-aside of this conviction (*see Instructions*)

I am eligible to have my conviction set aside because I was convicted or found GEI of a:
(check all that apply)

Eligibility Date

Felony – Class B *and*

- 7 years have passed since the later of the conviction/judgment or release date *and*
- I have not been convicted of any other offense or found guilty except for insanity in the past 7 years

Felony – Class C *and*

- 5 years have passed since the later of the conviction/judgment or release date *and*
- I have not been convicted of any other offense or found guilty except for insanity in the past 5 years

Misdemeanor – Class A *and*

- 3 years have passed since the later of the conviction/judgment or release date *and*
- I have not been convicted of any other offense or found guilty except for insanity in the past 3 years

Misdemeanor – Class B or C *and*

- 1 year has passed since the later of the conviction/finding/judgment or release date *and*
- I have not been convicted of any other offense or found guilty except for insanity in the past year

Violation or Contempt of Court *and*

- 1 year has passed since the later of the conviction/finding/judgment or release date *and*
- I have not been convicted of any other offense or found guilty except for insanity in the past year

Sentence (including sanctions for contempt)

I have fully completed, complied with, or performed all terms of the sentence of the court

I was sentenced to probation in this case **and:**

My probation WAS NOT revoked

Or

My probation WAS revoked *and* 3 years have passed since the date of revocation

RECORD OF ARREST, CITATION, OR CHARGE

Date of arrest: _____

If no arrest date, date of citation, booking, or incident: _____

Arresting Agency: _____

Charges (*list the charges you were arrested or cited for*): _____

I am eligible to have the record of arrest, citation, or charge set aside because:

- no accusatory instrument was filed and at least **60 days** have passed since the prosecuting attorney indicated that prosecution / contempt would not be pursued
or
 an accusatory instrument was filed and I was acquitted or the case was dismissed
-

Fingerprints

- I **have sent** **will send** a copy of my fingerprints to the Department of State Police

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.

Date

Signature

Name (typed or printed)

Address

City/State/Zip

Phone Number

Certificate of Mailing

I certify that on *(date)*: _____ I delivered or placed in the United States mail a true and complete copy of this *Motion to Set Aside and Declaration in Support* to the District Attorney at *(address)*: _____

Date

Signature

Name (typed or printed)

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF

STATE OF OREGON,) Case No.: _____
Plaintiff,)
vs.) ORDER SETTING ASIDE ARREST RECORD
_____,)
Defendant)

THIS MATTER having come before the Court upon the Motion of the defendant for an Order Setting Aside all official records of this case pursuant to ORS 137.225; and the Court having reviewed the records and file herein, and now being fully advised, the Court hereby finds as follows:

1.) That the defendant was arrested as follows:

Original Arrest Date:

Original Arrest Charge: _____

Arresting Agency: _____

Date of Dismissal or Acquittal: _____

2.) That positive identification of the defendant has been established as follows:

FBI Identification Number: _____

Oregon State Identification Number: _____

Arresting Agency Number: _____

1 3.) That the circumstances and behavior of the defendant since the
2 date of arrest are found to warrant setting aside the arrest records;

3 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the defendant's arrest
4 record herein should be and the same is set aside, pursuant to ORS 137.225,
5 and hereafter the defendant, for all purposes of the law, shall be deemed not
6 to have been previously arrested.

7 IT IS FURTHER ORDERED that the Clerk of the Court shall forward a
8 certified copy of this Order to all law enforcement agencies mentioned in the
9 Court's file, including the following:

- 10 a) Federal Bureau of Investigation,
11 b) Oregon State Police
12 c) Oregon State Corrections Division,
13 d) Arresting Agency.

14 IT IS FURTHER ORDERED that thereafter the record of arrest herein shall
15 be sealed together with all other official records in this case, including
16 investigation reports of the involved law enforcement agencies concerning the
17 criminal episode.

18
19 DATED this _____ day of _____, 20 _____.
20

21 _____
22 Circuit Court Judge
23
24
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