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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

ARSEN MANSON,

Defendant and Appellant.

B284591

(Los Angeles County  
Super. Ct. No. MA059036)

APPEAL from an order of the Superior Court of Los Angeles County, Christopher G. Estes, Judge. Reversed.

Caneel C. Fraser, under appointment by the Court of Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Assistant Attorney General, Blythe J. Leszkay and Kathy S. Pomerantz, Deputy Attorneys General, for Plaintiff and Respondent.

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In 2013, Arsen Manson was convicted of six felony counts related to marijuana possession and sales and sentenced to a prison term. (Health & Saf. Code, §§ 11360, subd. (a), 11359.) He completed his sentence.

In 2016, the voters passed Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act, which among other things allows for recreational use of marijuana for those 21 years old or older. (Health & Saf. Code, §§ 11362.1 et seq.)

In 2017, Manson’s felony convictions were reduced to misdemeanors pursuant to subdivision (e) of Health and Safety Code section 11361.8, which permits a person who has completed his or her sentence for a felony possession or sale of marijuana conviction to petition the superior court to have the conviction reduced to a misdemeanor.<sup>1</sup> Subdivision (h) of that section provides that any felony conviction so reduced “shall be considered a misdemeanor . . . for all purposes.” (Health & Saf. Code, § 11361.8, subd. (h).)

Manson then petitioned the superior court to dismiss the redesignated convictions pursuant to Penal Code sections 1203.4 and 1203.4a, which permit certain probationers and

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<sup>1</sup> Health and Safety Code section 11361.8, subdivision (e), provides in pertinent part that “A person who has completed his or her sentence for a conviction under [Welfare and Institution Code] Sections . . . 11359, and 11360, . . . who would have been guilty of a lesser offense under [Proposition 64] had that act been in effect at the time of the offense, may file an application before the trial court . . . to have the conviction dismissed and sealed because the prior conviction is now . . . redesignated as a misdemeanor . . . .”

misdemeanants, respectively, to petition the court to set aside a guilty verdict and dismiss the accusatory pleading.<sup>2</sup>

As pertinent here, Penal Code section 1203.4a permits a defendant convicted of a misdemeanor and not granted probation to petition the superior court after the lapse of one blameless year to have the conviction dismissed. (*People v. Hamdon* (2014) 225 Cal.App.4th 1065, 1069.) This relief is available to a defendant whose felony conviction was reduced to a misdemeanor pursuant to a proposition, such as Proposition 64, passed by California voters to reduce certain low-level crimes from felonies to misdemeanors. (*People v. Khamvongsa* (2017) 8 Cal.App.5th 1239, 1242, 1246-1247.)

The trial court denied Manson's petition under Penal Code section 1203.4, which applies only to probationers, because Manson had not been granted probation on his convictions. The court apparently did not consider the petition under section 1203.4a, which applies to misdemeanants.

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<sup>2</sup> Penal Code section 1203.4a, subdivision (a), provides in pertinent part that "Every defendant convicted of a misdemeanor and not granted probation . . . shall, at any time after the lapse of one year from the date of pronouncement of judgment, if he or she has fully complied with and performed the sentence of the court, is not then serving a sentence for any offense and is not under charge of commission of any crime, and has, since the pronouncement of judgment, lived an honest and upright life and has conformed to and obeyed the laws of the land, be permitted by the court to . . . [petition to] set aside the verdict of guilty[] and . . . dismiss the accusatory pleading against the defendant, who shall thereafter be released from all penalties and disabilities resulting from the offense of which he or she has been convicted . . . ."

On appeal, Manson contends the trial court erred in failing to consider his petition under Penal Code section 1203.4a. Respondent concedes the point, and we agree. Because Manson may be eligible for relief under that section, which the trial court did not consider, the order denying his petition must be vacated and the case remanded for further proceedings.

**DISPOSITION**

The order is reversed.

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CHANNEY, J.

We concur:

ROTHSCHILD, P. J.

BENDIX, J.