

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO**

**MISDEMEANOR
PETITION FOR DISMISSAL PACKET
(PENAL CODE §§ 1203.4 & 1203.4a)**



FORMS INCLUDED IN THIS PACKET

Petition for Dismissal - General Information (Misdemeanor- Pen. Code, §§ 1203.4 & 1203.4a)	SDSC Form #CRM-202
Petition for Dismissal - Petition (Felony/Misdemeanor PEN. Code, §§ 1203.4 & 1203.4a)	SDSC Form #CRM-204
Work Up Sheet – Petition for Dismissal (CONFIDENTIAL)	SDSC Form #CRM-205



SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

- CENTRAL DIVISION, CENTRAL COURTHOUSE, 1100 UNION ST., SAN DIEGO, CA 92101
- EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA 92020
- NORTH COUNTY DIVISION, 325 S. MELROSE DR., VISTA, CA 92081
- SOUTH COUNTY DIVISION, 500 3RD AVE., CHULA VISTA, CA 91910

PETITION FOR DISMISSAL – GENERAL INFORMATION (MISDEMEANOR – PEN. CODE, §§ 1203.4 & 1203.4a)

Eligibility	Pen. Code, § 1203.4	<p>If probation was <u>granted</u>, petitioner may be eligible for relief if all of the following are met:</p> <ul style="list-style-type: none"> Petitioner is not currently serving a sentence for any offense. Petitioner is not currently on probation for any offense. Petitioner is not currently charged with the commission of any offense. Petitioner has fulfilled the conditions of probation for the entire period of probation, OR petitioner has been discharged prior to the termination of probation, OR relief should be granted in the interest of justice.
	Pen. Code, § 1203.4a	<p>If probation was <u>not granted</u>, and one year has elapsed since the date of sentencing, petitioner may be eligible for relief if all of the following are met:</p> <ul style="list-style-type: none"> Petitioner has fully complied with and performed the sentence of the court. Petitioner is not currently serving a sentence for any offense. Petitioner is not currently charged with the commission of any offense. Since the pronouncement of judgment, petitioner has lived an honest and upright life and has conformed to and obeyed the laws of the land, OR relief should be granted in the interest of justice.
	Ineligible Violations	<ul style="list-style-type: none"> Convictions falling within the provisions of Vehicle Code section 42002.1 (Veh. Code, §§ 2800, 2801, 2803), and for violating Penal Code section 288(c) are ineligible for relief. Convictions for violating Penal Code sections 311.1, 311.2, 311.3, or 311.11 are ineligible for relief under Penal Code section 1203.4. If the petitioner was charged with any offense described in Vehicle Code section 12810(a)-(e), relief under Penal Code section 1203.4 is discretionary with the court.
	Case Status	<p>The case must be an adjudicated matter. This means that the petitioner has either entered a plea of guilty or no contest, or a guilty verdict was entered, and the petitioner was sentenced. The following case dispositions are not eligible for relief:</p> <ul style="list-style-type: none"> Bail was forfeited and a plea was never entered. The case or charges were previously dismissed.
Petition	Location	The petition for dismissal must be filed in the court in which the matter was adjudicated.
	Forms	Court policy requires the filing of the Petition and Order for Dismissal (Felony/Misdemeanor) (SDSC Form #CRM-204) and the Work Up Sheet – Petition for Dismissal (CONFIDENTIAL) (SDSC Form #CRM-205). A separate petition and work up sheet must be submitted for each case number.
	Supporting Documents	If the petition is based on the interest of justice, a declaration stating the reasons why dismissal is appropriate must be attached to the petition. A Declaration form (JC Form #MC-030) may be used.
	Providing Notice	The appropriate prosecuting agency must be given 15 calendar days' notice of the filing of the petition to allow time for the filing of an optional objection to the petition. It is the petitioner's responsibility to serve the prosecuting agency with any petitions filed.
	Records Check	The information provided in the petition will be verified by a records check.
	Processing Time	The processing of the petition may take approximately four to eight weeks from the date it is filed. If a hearing date is set, the petitioner will be notified.
	Certificate of Rehabilitation and Pardon	If the court grants a petition for dismissal, the petitioner may be eligible for a certificate of rehabilitation and pardon pursuant to Penal Code section 4852.01 et seq. A Certificate of Rehabilitation & Pardon Instruction Packet (SDSC PKT-016) may be found on the Superior Court's website at www.sdcourt.ca.gov .
Older Records	<p>Government Code section 68152 allows that some court records be destroyed after five years. The court may not be able to process a petition filed after the case records have been destroyed, unless documentation of the appropriate court records can be provided. The following documentation is acceptable:</p> <ul style="list-style-type: none"> Certified copies of the complaint, conviction, and clerk's minutes in the case. A Department of Justice abstract of petitioner's criminal history, which may be obtained by contacting: <ul style="list-style-type: none"> California Department of Justice Telephone: (916) 227-3835 Bureau of Criminal Identification and Analysis Website: http://oag.ca.gov/fingerprints/record-review Records Review and Challenge Section P.O. Box 160207 Sacramento, CA 95816-0207 	
Granting of the Petition	<p>If granted, a notation of such will be entered on the record, but granting relief does not:</p> <ul style="list-style-type: none"> Prevent disclosure to a criminal justice agency. Release the petitioner from the terms and conditions of any unexpired criminal protective order issued under Penal Code sections 136.2(i)(1), 273.5(j), 368(l), or 646.9(k). Restore any privileges regarding possession or control of firearms (Pen. Code, §§ 29800 et. seq., 29900 et seq.) or driver license suspension or revocation (Veh. Code, § 13555). Remove the obligation to disclose the conviction in a questionnaire or application for holding public office, licensure with a state or local agency, or for contracting with the California State Lottery Commission. Remove the duty to provide specimens, samples, or print impressions required by the DNA and Forensic Identification Database and Data Bank Act (Pen. Code, § 299(f)). Permit a petitioner prohibited from holding public office as a result of the conviction to hold public office. 	

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ EMAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO <input type="checkbox"/> CENTRAL DIVISION, CENTRAL COURTHOUSE, 1100 UNION ST., SAN DIEGO, CA 92101 <input type="checkbox"/> EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA 92020 <input type="checkbox"/> NORTH COUNTY DIVISION, 325 S. MELROSE DR., VISTA, CA 92081 <input type="checkbox"/> SOUTH COUNTY DIVISION, 500 3RD AVE., CHULA VISTA, CA 91910	
PLAINTIFF PEOPLE OF THE STATE OF CALIFORNIA	
DEFENDANT	SUPERIOR COURT CASE NUMBER
PETITION FOR DISMISSAL (FELONY/MISDEMEANOR – PEN. CODE, §§ 1203.4 & 1203.4a)	CA/DA CASE NUMBER

Petitioner's (the defendant in the above-entitled case) date of birth: _____.

Petitioner was convicted on _____ of the following felony misdemeanor charges: _____.

Petitioner requests reduction of the applicable felony charge(s) to misdemeanor(s) per Penal Code section 17 (separate moving papers are attached).

Petition for relief per Penal Code section 1203.4: Petitioner is entitled to the relief requested based on the following: Probation was granted and has expired or been terminated (ending on _____); petitioner is not currently serving a sentence for any offense, on probation for any offense, or charged with the commission of any offense; and:

- Petitioner has fulfilled the conditions of probation for the entire period of probation; or
- Petitioner has been discharged prior to termination of probation; or
- Relief should be granted in the interest of justice (declaration stating reasons attached).

Petition for relief per Penal Code section 1203.4a: Petitioner is entitled to the relief requested based on the following: Petitioner was convicted of a misdemeanor and probation was not granted; one year has elapsed since the pronouncement of judgment; petitioner has fully complied with and performed the sentence of the court; and is not currently serving a sentence on any offense, not charged with the commission of any offense; and:

- Since the pronouncement of judgment, petitioner has lived an honest and upright life and has conformed to and obeyed the laws of the land; or
- Relief should be granted in the interest of justice (declaration stating reasons attached).

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

Date: _____

Signature of Petitioner / Attorney for Petitioner

Petition filed must be served on the prosecuting agency.

If the court grants the relief herein requested, petitioner may have the right to petition for a certificate of rehabilitation and pardon pursuant to Penal Code section 4852.01 et. seq. A Certificate of Rehabilitation & Pardon Instruction Packet (SDSC PKT-016) may be found on the Superior Court's website at www.sdcourt.ca.gov.

NOTICE OF HEARING

Hearing on the petition is scheduled on _____ (date) at _____ (time) a.m. p.m. in Dept. _____ of the _____ Division of the San Diego Superior Court.

Clerk of the Superior Court

Date: _____

by _____, Deputy

Distribution by: _____ on _____ to: Pet. Atty Pros. Prob.

CONFIDENTIAL

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO <input type="checkbox"/> CENTRAL DIVISION, CENTRAL COURTHOUSE, 1100 UNION ST., SAN DIEGO, CA 92101 <input type="checkbox"/> CENTRAL DIVISION, KEARNY MESA, 8950 CLAIREMONT MESA BLVD., SAN DIEGO, CA 92123 <input type="checkbox"/> EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA 92020 <input type="checkbox"/> NORTH COUNTY DIVISION, 325 S. MELROSE DR., VISTA, CA 92081 <input type="checkbox"/> SOUTH COUNTY DIVISION, 500 3RD AVE., CHULA VISTA, CA 91910	<i>FOR COURT USE ONLY</i>
PLAINTIFF PEOPLE OF THE STATE OF CALIFORNIA	
DEFENDANT	SUPERIOR COURT CASE NUMBER
WORK UP SHEET – PETITION FOR DISMISSAL (CONFIDENTIAL)	PROBATION NUMBER

Date Needed By _____

TO BE COMPLETED BY PETITIONER OR REPRESENTATIVE	
NAME:	ALIAS(ES):
ADDRESS:	
PHONE NUMBER:	DRIVER LICENSE:
DATE OF BIRTH:	PLACE OF BIRTH:
SOCIAL SECURITY NUMBER:	
CHARGES:	

FOR COURT USE ONLY

<input type="checkbox"/> Proof of service in file shows that the petition was served on the prosecuting agency at least 15 calendar days (plus an additional five or 10 days, if served by mail) before submitted to court for review.
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Distribution by: _____ on _____ to: Prob. BIU

TO BE COMPLETED BY BACKGROUND INVESTIGATION UNIT (BIU)/PROBATION INVESTIGATOR ONLY					
Checks Completed:					
Local Records	CII	FBI	Wants/Warrants	DMV	Other
<input type="checkbox"/> Probation granted on _____ for _____ years. <input type="checkbox"/> No probation. Sentenced: _____					
During term of probation, record indicates: <input type="checkbox"/> Clear record <input type="checkbox"/> Petitioner was convicted in the following case(s): Case No.: _____ Charge(s): _____ sentenced: _____ Case No.: _____ Charge(s): _____ sentenced: _____ Case No.: _____ Charge(s): _____ sentenced: _____					
At time of petition, record indicates: <input type="checkbox"/> Clear record <input type="checkbox"/> Arrested within the last 12 months on:					
Date: _____ Charge(s): _____ Date: _____ Charge(s): _____ Date: _____ Charge(s): _____ Date: _____ Charge(s): _____ Date: _____ Charge(s): _____ Date: _____ Charge(s): _____					
<input type="checkbox"/> Outstanding warrant(s): _____					
<input type="checkbox"/> Petitioner now on probation for another offense: _____					
<input type="checkbox"/> Petitioner now in jail/prison for another offense: _____					
Completed by: _____ Date: _____					