

# SUPERIOR COURT OF CALIFORNIA COUNTY OF TULARE



## REQUEST FOR DISMISSAL PC1203.4 / PC1203.4 (a)

FORMS INCLUDED IN THIS PACKET	
Petition for Dismissal	CR-180 Judicial Council of California
Order for Dismissal	CR-181 Judicial Council of California
Attached Declaration	MC-031
Acknowledgment of Receipt	TCSC Form

A request for dismissal reopens your criminal case, dismisses and sets aside the conviction, and re-closes the case without a conviction. In effect, you are no longer a convicted person; however, the case record itself will still exist and the dismissal will appear on your record.

If you are applying for a government job, a job that requires security clearance, or a job that requires a government issued license, certificate or permit, the conviction will be discovered during the standard background check. You should disclose the conviction and dismissal in these situations. If you are applying for a government issued license, certificate or permit, you **must** disclose your conviction and dismissal.

Although your conviction may be dismissed, the sanctions such as firearms prohibitions, exclusions from jury duty, or strikes, cannot be dismissed. These remain intact for life.

A dismissal does not:

- Remove the conviction from your criminal history. California and FBI criminal history records will still show the conviction and the subsequent dismissal.
- Reinstate your right to possess firearms.
- Allow you to omit the conviction from applications for government issued licenses.
- Seal the court case file from public inspection. The court file remains public record.
- Prevent the conviction from being used as a “prior” for sentencing enhancements in subsequent convictions.
- Prevent the conviction from being used to impeach your testimony if you are called as a witness in court.
- Prevent the conviction from being used to refuse or revoke a government license or permit, such as real estate license, teaching credential, security guard certificate, etc.
- Prevent the conviction from being used by US Citizenship and Naturalization Services for removal or exclusion purposes.

You are eligible for dismissal of a conviction and the court will dismiss your conviction if:

- You received probation for that conviction and
  - You successfully completed probation or obtained an early release.
  - You also have paid all the fines, restitution, and reimbursements ordered by the court as part of your sentence.
  - You are not currently serving another sentence or on probation for another offense, AND
  - You are not currently charged with another offense.
- You never received probation and
  - Your conviction was a misdemeanor
  - It has been at least one year since the date you were convicted

- You have complied fully with the sentence of the court
- You are not currently serving another sentence
- You are not currently charged with another offense, AND
- You have obeyed the law and lived an honest and upright life since the time of your conviction.

You are eligible for dismissal and the court has the discretion (choice) to grant you the dismissal if:

- You received probation but you did not get an early release, did not fulfill all the conditions of probation, or were convicted of any offense listed in California Vehicle Code §12810(a) to (e) BUT:
  - You have paid all the fines, restitution, and reimbursements ordered by the court as part of your sentence, AND
  - You are not currently charged with, on probation for, or serving a sentence on any other offense.

If you were convicted of any of the following offenses you are not eligible for dismissal under Penal Code § 1203.4(a): Any misdemeanor within the provision of Vehicle Code § 42001(b); any violation of Penal Code § 286(c), 288, 288a(c), 288.5 or 289(j), a felony under Penal Code § 261.5(d), any infraction.

## **PROCEDURE**

In order to begin cleaning up your criminal record you first need to know what is on your criminal record. Your criminal records information can be obtained from a variety of sources. Below is a list of the sources most commonly used:

- Your court papers received at the time of conviction.
- The Superior Court where you were convicted.
- The California State Department of Justice, Criminal Records Division. They will have your criminal records information for the entire State of California. They are located at 4949 Broadway, First Floor Fingerprinting Office, Sacramento, CA. Their phone number is (916) 227-3400. There is a fee for these records and it may take several weeks for the records to arrive in the mail.

Once you obtain your criminal record you will need to complete the proper forms and file them with the Court. There are two forms that you will need to complete to dismiss your conviction.

- Petition for Dismissal (CR-180) <http://www.courts.ca.gov/documents/cr180.pdf>
- Order for Dismissal (CR-181) <http://www.courts.ca.gov/documents/cr181.pdf>

These forms are also attached in this packet and are available at the Courthouse.

### ***Complete the Petition***

Everything you need to know in order to fill out the petition is in the minute order from your sentencing or your criminal record history from the Department of Justice.

You will need the original plus two (2) copies of the Petition.

Before you file your Petition with the Court you will need to serve a copy of the Petition to the Tulare County District Attorney's Office located in Room 224 on the 2<sup>nd</sup> floor of the Visalia Courthouse or at 643 North Westwood in Porterville. The District Attorney will keep a copy of the Petition for their file and will sign the attached

**Acknowledgement of Receipt of Copy.** If your Petition is for a felony conviction you will also need to serve a copy of the Petition to the Tulare County Probation Office located in Room 206 on the 2<sup>nd</sup> floor of the Visalia Courthouse or at 1055 W. Henderson Suite, 7 in Porterville. The Probation Office will keep a copy of the Petition for their file and will sign the attached **Acknowledgement of Receipt of Copy.**

### ***File Your Petition(s) with the Court(s)***

Once you have served a copy of your petition you will need to file the original petition with either of the Clerk's Offices.

- Room 124 on the 1<sup>st</sup> floor of the Visalia Courthouse
- Criminal Motions Window on the 1<sup>st</sup> floor of the South County Justice Center

The Clerk's Office will then place your matter on calendar and send notices to you and the District Attorney's Office advising you of the court date.

### ***Filing Fees***

There is no fee for filing your petition; however, the Court may order you to pay a reimbursement fee.

*A person who petitions the Court for a Request for Dismissal under section PC § 1203.4 may be required to pay a reimbursement fee. The reimbursement fee is determined by the County Board of Supervisors for the actual costs of services rendered, whether or not the petition is granted and the records are dismissed. The County has discretion in setting reimbursement fees not to exceed \$150.00. The ability to make the reimbursement fee shall be determined by the Court. The Court may order reimbursement in any case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the cost for services*

Reimbursements fees are determined by the Court at the time of the hearing and are due and payable after your hearing is concluded and whether or not your Petition is granted. If your Petition is a Misdemeanor case, your reimbursement payment will be made in either Room 124 of the Visalia Courthouse or at the Traffic Payment windows at the South County Justice Center. If your Petition is for Felony case, your reimbursement payment will be made with the Probation Department in Room 206.

# SUPERIOR COURT OF CALIFORNIA COUNTY OF TULARE

Acknowledgment of receipt of a copy of the herein Petition and Order for Dismissal under Penal Code §1203.4 or Penal Code §1203.4(a).

## **TULARE COUNTY DISTRICT ATTORNEY'S OFFICE**

I do hereby acknowledge receipt of a copy of the Petition and Order for Dismissal (CR-180 and CR-181). Dated: \_\_\_\_\_.

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**Tim Ward, Tulare County District Attorney**

## **TULARE COUNTY PROBATION DEPARTMENT**

I do hereby acknowledge receipt of a copy of the Petition and Order for Dismissal (CR-180 and CR-181). Dated: \_\_\_\_\_.

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**Michelle Bonwell, Chief Probation Officer**

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

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	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 under charge of commission of 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 the Attached Declaration (form MC-031) 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 the date of pronouncement of judgment. Petitioner has complied with the sentence of the court and is not serving a sentence for any offense or under charge of commission of 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 the Attached Declaration (form MC-031) 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 petitioner can establish by clear and convincing evidence that the conviction was the result of his or her status as a victim of human trafficking.

(*Please note: You may 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 the Attached Declaration (form MC-031) and attach it to this petition.*)

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

Petitioner is not under supervision under Penal Code section 1170(h)(5)(B); is not serving a sentence for, on probation for, or charged with the commission of any offense; 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); **or**
- 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).

(*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 the Attached Declaration (form MC-031) 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 charged with the commission of any offense; 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 the Attached Declaration (form MC-031) 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 he or she completed the requirements for deferred entry of judgment. Petitioner (check one)
  - (1)  has
  - (2)  has not
 attached a copy of his or her 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 he or she 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.

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 OR ATTORNEY)

\_\_\_\_\_  
(ADDRESS OF PETITIONER) (CITY) (STATE) (ZIP CODE)



ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	<b>FOR COURT USE ONLY</b>
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT: DATE OF BIRTH:	
<b>ORDER FOR DISMISSAL</b> <b>(Pen. Code, §§ 17(b), 17(d)(2), 1203.4, 1203.4a, 1203.41, 1203.42, 1203.43, 1203.49)</b>	CASE NUMBER:

The court finds from the records on file in this case, and from the foregoing petition, that the petitioner (*the defendant in the above-entitled criminal action*) is eligible for the following requested relief:

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 he or she committed the crime. The court orders *(check one)*  
a.  the relief described in section 1203.4.  
b.  the relief described in section 1203.4, with the following exceptions *(specify)*:
6. If the order is granted under the provisions of Penal Code section 1203.49, the Department of Justice is hereby notified that petitioner was a victim of human trafficking when he or she committed the crime, and of the relief ordered.
7. 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 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.)*
8. If the 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 his or her control a firearm if prevented by Penal Code sections 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.
9. In addition, as required by Penal Code section 299(f), relief under Penal Code sections 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 defendant'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.

FOR COURT USE ONLY
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Date: \_\_\_\_\_  
(JUDICIAL OFFICER)

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
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### 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*):