

Superior Court of California

County of San Luis Obispo

[www.slo.courts.ca.gov](http://www.slo.courts.ca.gov)

# PETITION FOR DISMISSAL MISDEMEANOR AND INFRACTION CASES General Overview of Process

1	DETERMINE IF YOU ARE ELIGIBLE	<p>You are eligible if:</p> <p>The conviction resulted in jail time and/or probation, not prison time and parole.</p> <p>Charge is not currently a Felony (Felonies require a Formal Motion to be filed)</p> <p>*If you have a Felony or are still on probation you may be eligible for a reduction in your charge or early termination of probation. Check in with the Criminal Department in room 220 for more information.</p>	<p>To be ready you must:</p> <ul style="list-style-type: none"> <li>• Not be serving a sentence.</li> <li>• Not be on probation or parole (for any conviction)</li> <li>• Not be charged with a crime currently</li> <li>• Have paid all court fines and fees (on THIS case)</li> </ul>
2	INFORMATION NEEDED TO COMPLETE FORMS	<p>Information needed:</p> <ul style="list-style-type: none"> <li>• Court where you were convicted</li> <li>• Name you were convicted under</li> <li>• Case number</li> <li>• Code section and code violation</li> <li>• Conviction date</li> <li>• Whether you had probation or not</li> </ul>	<p>You can get this information by:</p> <ul style="list-style-type: none"> <li>• Calling the court where the conviction occurred and requesting your “docket”</li> <li>• If you do not know where you were convicted, you will need to do a “Live Scan” in order to obtain your Rap Sheet. A Rap Sheet lists all convictions in California.</li> </ul>
3	REQUESTING CASE INFORMATION	<p><b>Requesting from San Luis Obispo Superior Court:</b></p> <p>Fill out the Request for Criminal Case Information form located on the courts website at <a href="https://www.slo.courts.ca.gov/sh/selfhelp-criminallaw-inforequest.htm">https://www.slo.courts.ca.gov/sh/selfhelp-criminallaw-inforequest.htm</a>, click on the Request for Criminal Case Information form.</p> <p>OR</p> <p>Email the Criminal Department at <a href="mailto:SLOCrim@slo.courts.ca.gov">SLOCrim@slo.courts.ca.gov</a> with your name and date of birth.</p> <p>Make sure to state on the request that you are requesting your case information for a Petition to Dismiss.</p> <p><b>Live Scan:</b> Locate a company in your area that conducts Live Scans. This will require you to go into the facility you choose and complete a fingerprint scan. You will then receive a Rap Sheet which is a printout of all cases and/or convictions within California.</p>	
4	COMPLETE FORMS	<p>CR-180 Petition for Dismissal</p> <p>CR-181 Order for Dismissal</p> <p>EFS-005-CV Consent to Electronic Service - In order for the court to notify you of the outcome you must include the Consent to Electronic Service and Notice of Electronic Service Address OR a self-addressed stamped envelope</p>	

<b>5</b>	<b>FILE THE DOCUMENT WITH THE COURT</b>	<p>Mail or use the Drop Box at: 1050 Monterey Street, Room 220, San Luis Obispo, CA 93408 Email <a href="mailto:SLOCrim@slo.courts.ca.gov">SLOCrim@slo.courts.ca.gov</a>, Efile at <a href="https://www.slo.courts.ca.gov/os/efiling.htm">https://www.slo.courts.ca.gov/os/efiling.htm</a></p> <p>The court will serve a copy on the District Attorney and the Probation Department if necessary. Both parties have thirty days to respond. If a response is received, the clerk will forward the response and the petition to the judge for review. If no response is received, and thirty days have passed, the clerk will forward the petition to the judge for review.</p>
<b>6</b>	<b>THREE POSSIBLE OUTCOMES OF THE PETITION</b>	
	<b>GRANTED</b>	<p>If the petition is granted, your case information will be updated with the court and Department of Justice. No other action is needed.</p> <p>You will receive a signed certified copy back by email if an email address was provided or by mail if a self-addressed stamped envelope was provided.</p>
	<b>DENIED</b>	<p>When a petition is denied the judge will typically write a reason for the denial. Review the reason or contact the clerk's office for more information as to why the petition was denied.</p> <p>You have the option to refile the petition or to file an appeal within 60 days.</p>
	<b>DEMAND FOR MORE INFORMATION</b>	<p>If the Clerk or the Judge notice that there are orders outstanding on your case, you may receive a Demand Letter requesting that proof of completion be shown to the court. This could include proof of completion of some type of program, proof that a fine has been paid in full, or any type of outstanding issue that the judge needs to verify has been completed prior to making a decision. You have 30 days to respond with the requested information. If you are unable to show the proof requested you may submit a declaration outlining the reason you are unable to show proof and explain, in as much detail as possible, what you completed, when, and how(i.e. DUI class is no longer active).</p> <p>If requested information is not received by the court within 30 days, the petition will be denied.</p> <p>If the information requested is provided, the petition will be forwarded to the judge for determination and signature. You will receive a signed certified copy back by email if an email address was provided or by mail if a self-addressed stamped envelope was provided.</p>

#### WHERE TO GET FORMS:

☐ **Internet:** For free, you can log onto [www.courts.ca.gov](http://www.courts.ca.gov) and click on "Forms & Filing" and then click on "Judicial branch of California Forms" and click on "All Forms Listed."  
Click on the forms to open and print them. Forms needed CR-180, CR-181, and EFS-005-CV.

**COSTS INVOLVED:** \$0.00 - No Filing Fee

# Petition for Dismissal

## Penal Code Section 1203.4

What **CAN** a Petition to Dismiss do for you?

1. Allow you to answer “**No**” if a potential employer asks if you have ever been convicted of a crime, unless it is for government employment or a government licensing board. Under most circumstances, private employers cannot ask you about any convictions dismissed under Penal Code section 1203.4. So when applying for a job in the private sector, you generally do not have to disclose a conviction if it was dismissed or expunged. But it is a good idea to read Penal Code section 1203.4, or California Code of Regulations section 11017.1, or to contact an attorney if you have questions about your rights and obligations regarding past convictions when applying for a job.

The granting of the dismissal will **NOT**:

1. Allow you to omit the conviction from a questionnaire or application for; public office, for licensure by any state or local agency, government employment, or for contracting with the California State Lottery Commission. If applying for or filling out a questionnaire for any of the above items and you are asked if you have ever been convicted of a crime, you **MUST** respond with “**YES—CONVICTION DISMISSED.**”
2. Remove the conviction from your "Rap Sheet" - California and FBI criminal history records will still show the conviction and the later dismissal "per PC 1203.4"; .
3. Destroy, wipe out, strike, seal or otherwise remove the court case file from public inspection.
4. Allow you to possess a firearm if you have been denied such a right due to the conviction.
5. Prevent the conviction from being used by INS for removal and exclusion purposes.
6. Remove the requirement to register as a sex offender per PC290.
7. Allow you to hold public office. If your conviction prohibited you from holding public office, you still cannot hold public office after that conviction is dismissed.
8. Prevent the conviction from being used as a "prior" or "strike prior" to increase punishment on a subsequent conviction
9. Reinstate you're driving privileges.



ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: <b>Pat Sample</b> FIRM NAME: STREET ADDRESS: <b>1234 Main Street</b> CITY: <b>San Luis Obispo</b> STATE: <b>CA</b> ZIP CODE: <b>93401</b> TELEPHONE NO.: <b>(805) 555-1234</b> FAX NO.: E-MAIL ADDRESS: <b>PatSample@emailaddress.com</b> ATTORNEY FOR (name): <b>Petitioner in Pro Per</b>	<b>FOR COURT USE ONLY</b>
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT: <b>Pat Sample</b> DATE OF BIRTH: <b>01/01/1990</b>	CASE NUMBER: <b>16M-00001</b>
<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): **01/01/2019**, 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 ( <i>felony, misdemeanor, or infraction</i> ):	Eligible for reduction to misdemeanor under Penal Code, § 17(b) ( <i>yes or no</i> )	Eligible for reduction to infraction under Penal Code, § 17(d)(2) ( <i>yes or no</i> )
VC	23152	Misdemeanor		
PC	647(F)	Misdemeanor		

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, nor on probation for any offense, nor 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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**Pat Sample**

CASE NUMBER:  
**16M-00001**

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.*)

PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:  
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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: **09/13/2019**

► *Pat Sample*

(SIGNATURE OF PETITIONER OR ATTORNEY)

**1234 Main Street**

(ADDRESS OF PETITIONER)

**San Luis Obispo, CA 93401**

(CITY)

(STATE)

(ZIP CODE)

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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**Pat Sample**

CASE NUMBER:  
**16M-00001**

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 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

Date: \_\_\_\_\_  
 (JUDICIAL OFFICER)



ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO: NAME: <b>Pat Sample</b> FIRM NAME: STREET ADDRESS: <b>1234 Main Street</b> CITY: <b>San Luis Obispo</b> STATE: <b>CA</b> ZIP CODE: <b>93401</b> TELEPHONE NO.: <b>(805) 555-1234</b> FAX NO.: E-MAIL ADDRESS: <b>PatSample@emailaddress.com</b> ATTORNEY FOR (name): <b>Petitioner in Pro Per</b>		FOR COURT USE ONLY          
SUPERIOR COURT OF CALIFORNIA, COUNTY OF <b>San Luis Obispo</b> STREET ADDRESS: <b>1050 Monterey St., Room 220</b> MAILING ADDRESS: CITY AND ZIP CODE: <b>San Luis Obispo, CA 93408</b> BRANCH NAME:		
Plaintiff/Petitioner: <b>Pat Sample</b>  Defendant/Respondent:		CASE NUMBER: <b>16M-00001</b>  JUDICIAL OFFICER:
<b>CONSENT TO ELECTRONIC SERVICE AND NOTICE OF ELECTRONIC SERVICE ADDRESS</b>		DEPARTMENT:

1. ☒ The following party or ☐ the attorney for:

- a. ☐ plaintiff (name):
- b. ☐ defendant (name):
- c. ☒ petitioner (name): **Pat Sample**
- d. ☐ respondent (name):
- e. ☐ other (describe):

consents to electronic service of notices and documents in the above-captioned action.

2. The electronic service address of the person identified in item 1 is (specify):

**PatSample@emailaddress.com**

Date: **09/13/2019**

**Pat Sample**

TYPE OR PRINT NAME

► **Pat Sample**

(SIGNATURE OF PARTY OR ATTORNEY)

**CONSENT TO ELECTRONIC SERVICE AND NOTICE OF ELECTRONIC SERVICE ADDRESS**