

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

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



**FORMS INCLUDED IN THIS PACKET**

General Information for Petitions for Dismissal-Misdemeanors	SDSC Form #CRM-202
Petition for Dismissal	SDSC Form #CRM-204



## SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

- CENTRAL DIVISION, COUNTY COURTHOUSE, 220 W. BROADWAY, 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

### GENERAL INFORMATION FOR PETITIONS FOR DISMISSAL UNDER PEN. CODE §§ 1203.4 AND 1203.4a MISDEMEANORS

Eligibility	Statute	<p>The following are requirements of Pen. Code §§ 1203.4 or 1203.4a :</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 15%; vertical-align: top;">Pen. Code § 1203.4</td> <td style="vertical-align: top;"> <p>If probation was <u>granted</u>, defendant may be eligible for relief if the conditions of probation for the entire period of probation have been fulfilled, OR defendant has been discharged from probation, AND all of the following:</p> <ul style="list-style-type: none"> <li>▶ Defendant is not now serving a sentence for any offense.</li> <li>▶ Defendant is not now on probation for any offense.</li> <li>▶ Defendant is not now charged with committing any offense.</li> </ul> </td> </tr> <tr> <td style="vertical-align: top;">Pen. Code § 1203.4a</td> <td style="vertical-align: top;"> <p>If probation was <u>not granted</u>, and more than one year has elapsed since the date of sentencing, defendant may be eligible for relief if all of the following are met:</p> <ul style="list-style-type: none"> <li>▶ Defendant has fully complied with and performed the sentence of the court.</li> <li>▶ Defendant is not now serving a sentence for any offense.</li> <li>▶ Defendant is not now charged with committing any offense.</li> </ul> </td> </tr> </table>	Pen. Code § 1203.4	<p>If probation was <u>granted</u>, defendant may be eligible for relief if the conditions of probation for the entire period of probation have been fulfilled, OR defendant has been discharged from probation, AND all of the following:</p> <ul style="list-style-type: none"> <li>▶ Defendant is not now serving a sentence for any offense.</li> <li>▶ Defendant is not now on probation for any offense.</li> <li>▶ Defendant is not now charged with committing any offense.</li> </ul>	Pen. Code § 1203.4a	<p>If probation was <u>not granted</u>, and more than one year has elapsed since the date of sentencing, defendant may be eligible for relief if all of the following are met:</p> <ul style="list-style-type: none"> <li>▶ Defendant has fully complied with and performed the sentence of the court.</li> <li>▶ Defendant is not now serving a sentence for any offense.</li> <li>▶ Defendant is not now charged with committing any offense.</li> </ul>				
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Ineligible Violations	<p>Defendants <u>may</u> be ineligible to seek relief under Pen. Code §§ 1203.4 or 1203.4a if convicted of violating Pen. Code §§ 286(c), 288, 288a(c), 288.5, 289(j), any infraction, any pedestrian offense within the provisions of Veh. Code §42001(b), or charged with any offense described in Veh. Code §12810(a)-(e).</p>									
Case Status	<p>The case must be an ADJUDICATED MATTER. This means that defendant has either entered a plea of guilty or no contest, or a guilty verdict was entered, and defendant was sentenced. The following case dispositions are <b>not</b> eligible for relief:</p> <ul style="list-style-type: none"> <li>▶ The charge(s) were dismissed upon completion of Pen. Code § 1000 diversion.</li> <li>▶ Bail was forfeited and a plea was never entered.</li> <li>▶ The case has previously been dismissed.</li> </ul>									
Application	Location	The petition for dismissal must be filed in the court in which the matter was adjudicated.								
	Form	Court policy requires the filing of the "Petition For Dismissal" (SDSC Form # CRM-204) for all applications for dismissal. Multiple case numbers for the same defendant must be placed on separate petition(s).								
	Court Costs	The petitioner may be required to reimburse the court \$60.00 for the costs incurred in processing <u>each</u> petition. Those who will be asking the court to waive costs based on inability to pay, must fill out a Financial Declaration (SDSC Form # ADM-227) and present it at the time the petition is filed. The Financial Declaration Form will be kept confidential.								
	Supporting Documents	Documents in support of the petition must be submitted if the petition is one that may only be granted in the interest of justice and at the discretion of the reviewing judge.								
	Notice to the Prosecuting Agency	Pursuant to Pen. Code § 1203.4(d), 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.								
	Certificate of Rehabilitation	If the court grants a petition for dismissal, the defendant may be eligible for a Certificate of Rehabilitation pursuant to Pen. Code § 4852 et seq. An information packet (PKT-016) may be obtained from the court or found at <a href="http://www.sdcourt.ca.gov">www.sdcourt.ca.gov</a> .								
Older Records	<p>Since Gov. Code § 68152 allows that some court records be destroyed after five years, the court may not be able to process a petition filed more than five years after a case has been adjudicated, unless documentation of the appropriate court records can be provided. The following documentation is acceptable:</p> <ul style="list-style-type: none"> <li>▶ Certified copies of the complaint, conviction, and clerk's minutes in the case.</li> <li>▶ A Department of Justice abstract of defendant's criminal history, which may be obtained by contacting: <table border="0" style="margin-left: 20px; width: 80%;"> <tr> <td style="width: 50%;">Department of Justice</td> <td>Telephone: (916) 227-3832</td> </tr> <tr> <td>Records Review Unit</td> <td>Website: <a href="http://caag.state.ca.us">http://caag.state.ca.us</a></td> </tr> <tr> <td colspan="2">P.O. Box 903417</td> </tr> <tr> <td colspan="2">Sacramento, CA 94203-4170</td> </tr> </table> </li> </ul>		Department of Justice	Telephone: (916) 227-3832	Records Review Unit	Website: <a href="http://caag.state.ca.us">http://caag.state.ca.us</a>	P.O. Box 903417		Sacramento, CA 94203-4170	
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Sacramento, CA 94203-4170										
Granting of the Petition	<p>The relief granted by Pen. Code § 1203.4 or 1203.4a does NOT seal, destroy, or remove any entries from the court, law enforcement, or Department of Justice records; a notation will be entered on the record that relief was granted pursuant to this statute. If granted, the order does not permit the defendant to own, possess, or have custody or control over any firearm and the Department of Motor Vehicles will still consider the conviction for purposes of revocation or suspension of the driving privilege pursuant to Veh. Code § 13555.</p>									

PETITIONER OR ATTORNEY FOR PETITIONER (Name, State Bar number, and address):  TELEPHONE NO.: FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):	(FOR COURT USE ONLY)
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO</b> <input type="checkbox"/> CENTRAL DIVISION, COUNTY COURTHOUSE, 220 W. BROADWAY, 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	
<b>PLAINTIFF</b> <b>PEOPLE OF THE STATE OF CALIFORNIA</b>	
DEFENDANT	SUPERIOR COURT CASE NUMBER
<b>PETITION FOR DISMISSAL</b>	

**PETITION**

Defendant hereby petitions for dismissal pursuant to Pen. Code §  1203.4  1203.4a.

**STATEMENT OF FACTS**

Defendant's date of birth: \_\_\_\_\_

Defendant was convicted on \_\_\_\_\_ of the following charges: \_\_\_\_\_

Probation was  NOT granted  granted by the court for a period of \_\_\_\_\_ year(s) and ended on \_\_\_\_\_

Defendant is entitled to the relief requested based on the following:

- Defendant has fulfilled the conditions of probation for the entire period of probation, **OR**  Defendant has been granted early termination of probation,

**AND** all of the following:

- (1) Defendant is not now serving a sentence on any offense.
- (2) Defendant is not on probation for any offense.
- (3) Defendant is not now charged with committing any offense.

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

Dated: \_\_\_\_\_ at \_\_\_\_\_ (City) \_\_\_\_\_ (State) by \_\_\_\_\_ Petitioner / Attorney for Petitioner

**Petition filed must be served on the prosecuting agency.**

**If the court grants the relief herein requested, defendant may have the right to petition for a Certificate of Rehabilitation and pardon pursuant to Pen. Code § 4852 et. seq. An information packet (SDSC #PKT-016) regarding this may be obtained from the court or found at [www.sdcourt.ca.gov](http://www.sdcourt.ca.gov).**

**NOTICE OF HEARING**

**Defendant's petition will be heard on \_\_\_\_\_ at \_\_\_\_\_ in Dept. \_\_\_\_\_.**

Clerk of the Superior Court

Date: \_\_\_\_\_ by \_\_\_\_\_, Deputy

Distribution by: \_\_\_\_\_ on \_\_\_\_\_ to  Prosecutor – Courtesy Copy  Defendant  Probation  Pre-trial Services