

# 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.

# **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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**Kelly Vernon, Chief Probation Officer**