

# Filing a Petition for Dismissal of Charges after Conviction



## Eligibility

You may be able to petition the court for a dismissal of your case in certain instances. If you have successfully completed all the terms of probation stated in your case, please read on to determine if you qualify to have your conviction withdrawn and dismissed.

### Statutes

The following are requirements of Penal Code Section 1203.4, 1203.4a, 1203.41, 1203.42, 1203.43, 1203.49:

PC1203.4 – felony or misdemeanor with probation granted, **AND** discharged from probation, **AND** not serving another sentence, **AND** not on probation for any offense, **AND** not charged with committing any offense

PC1203.4a – misdemeanor or infractions where probation was not granted, **AND** more than one year has elapse since date of judgment, **AND** has fully complied with the courts sentence, **AND** not serving another sentence, **AND** not charged with committing any offense

PC1203.41 – felony county jail under PC1170(h)(5), **AND** not under supervision under PC1170(h)(5)(B), **AND** not serving another sentence, **AND** not on probation for any offense, **AND** not charged with committing any offense

PC1203.42 – sentenced to state prison prior to 2011 Realignment Act, **AND** eligible under PC1170(h), **AND** more than two years have elapse since the completion of sentence, **AND** not serving another sentence, **AND** not on probation for any offense, **AND** not charged with committing any offense, **AND** not under supervised release

PC1203.43 – deferred entry of judgment, **AND** performed satisfactorily during the period in which deferred entry of judgement was granted, **AND** charges dismissed under PC1000.3

PC1203.49 – misdemeanor conviction under PC647(b), **AND** completed a term of probation, **AND** evidence that conviction was the result from status as a victim of human trafficking

### Ineligible Violations

Pursuant to PC1203.4(b), defendants are ineligible to seek relief under PC1203.4/PC1203.4a for convictions of violating any of the following sections:

- PC286(c)
- PC287(c) or of former section PC288a
- PC288
- PC288.5
- PC289(j)
- PC311.1, PC311.2, PC311.3
- PC311.11
- Any misdemeanor falling within the provisions of section 42002.1 of the Vehicle Code
- Any felony conviction pursuant to subdivision (d) of Section 261.5
- Violations for which a defendant has served time in prison, excluding County Prison eligible violations under the 2011 Realignment Act

# Application

## Case Status

The following case dispositions are not eligible for relief:

- Bail was forfeited and a plea was never entered
- The case has previously been dismissed

## Location for San Bernardino County Superior Court Filings

The petition for relief must be filed in the district in which the matter was adjudicated.

## Forms

- Petition for Dismissal (Judicial Council form number [CR-180](#))
- Order for Dismissal (Judicial Council form number [CR-181](#))

\*Multiple case numbers for the same defendant must be placed on a separate petition with a separate administrative fee per application.

## Administrative Fee

At the time of the hearing on the petition(s) you may be billed up to \$150.00 to the court for the actual costs of services rendered on each petition. If fees are ordered by the court and you are unable to pay, you may apply for a fee waiver by filing the "Request to Waive Court Fees and an "Order on Court Fee Waiver" (Judicial Council form numbers [FW-001](#) and [FW-003](#)). Forms can be obtained from the court clerk's office or on the internet at [www.sb-court.org](http://www.sb-court.org).

## Personal Appearance

You have a right to appear in front of a judge to be heard on the petition and/or on your ability to pay. You may waive appearance and the judge will decide based upon the submitted paperwork. If you wish to waive your right to appear in person, you can obtain a "Waiver of Personal Appearance" form from the court clerk's office at the time of filing the petition and supporting documents. The signed waiver must be submitted with the petition and/or fee waiver if the petitioner does not intend to personally appear.

## Notice to the Prosecuting Agency

Pursuant to PC1203.4(e)(1), the appropriate prosecuting agency must be given fifteen (15) calendar days' notice of the filing of the petition to allow time for the filing of an optional objection to the petition. Petitions filed must be served on the prosecuting agency and a proof of service filed with the court.

## Records Check

The information provided in the petition will be verified by a records check performed by the Probation Department or District Attorney's Office.

# Granting of the Petition

The relief granted by Penal Code Sections 1203.4, 1203.4a, 1203.41, 1203.42, 1203.43, and 1203.49 does NOT seal, destroy, or remove any entries from the court, law enforcement or Department of Justice records. This is a dismissal of the charge(s) and conviction(s). Upon granting of the petition, a notation will be entered on the record that relief was granted pursuant to this statute. The Department of Motor Vehicles shall still consider the conviction for the purpose of revocation or suspension of the driving privilege pursuant to Vehicle Code Section 13555.

# Records 10 Years or Older

Since Government Code Section 68152 allows that court records be destroyed after ten years, the court may not be able to process a petition filed more than ten years after a case has been adjudicated, unless documentation of the appropriate court records can be provided.

The following documentation is acceptable:

- Certified copies of the complaint, conviction, and minute orders in the case
- A Department of Justice abstract of the defendant's criminal history, which may be obtained by contacting:

California Department of Justice  
Record Review Unit  
P.O. Box 903417  
Sacramento, CA 94203-4170  
<http://oag.ca.gov>

## Court Locations

Barstow District (Infractions only)  
235 E. Mountain View St.  
Barstow CA 92311  
Clerk's Office: 760-718-3700  
\*\*Criminal matters to Victorville\*\*

Big Bear District  
477 Summit Blvd.  
Big Bear Lake CA 92315  
Clerk's Office: 760-718-3700  
\*\*Infractions heard in Barstow\*\*  
\*\*Criminal matters to San Bernardino Justice Center\*\*

Fontana District (Infractions only)  
17780 Arrow Blvd.  
Fontana CA 92335  
Clerk's Office: 909-350-9322  
\*\*Criminal matters to Rancho Cucamonga\*\*

Joshua Tree District  
6527 White Feather Rd.  
Joshua Tree CA 92252  
Clerk's Office: 760-974-3048

Needles District  
1111 Bailey Ave.  
Needles CA 92363  
Clerk's Office: 760-718-3700  
\*\*Infractions heard in Barstow \*\*  
\*\*Criminal matters to Victorville\*\*

Rancho Cucamonga  
8303 Haven Ave.  
Rancho Cucamonga CA 91730  
Clerk's Office: 909-350-9764  
\*\*Infractions only to Fontana\*\*

San Bernardino Justice Center  
247 West Third St.  
San Bernardino CA 92415-0240  
Clerk's Office: 909-384-1888  
\*\*Infractions only to Fontana\*\*

Victorville District  
14455 Civic Dr. Ste. 200  
Victorville CA 92392  
Clerk's Office: 760-245-6215  
\*\* Infractions only to Barstow\*\*