SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO

FELONY
PETITION FOR DISMISSAL PACKET
(PENAL CODE § 1203.4)

FORMS INCLUDED IN THIS PACKET	
General Information for Petitions for Dismissal – Felonies	SDSC Form #CRM-203
Petition for Dismissal	SDSC Form #CRM-204
General Information – Petitions for Certificate of Rehabilitation	SDSC Form #CRM-208
General Information – Application for a Pardon	SDSC Form #CRM-209

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 (FELONIES)

Eligibility	Pen. Code § 1203.4	If probation was granted, 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: ► Defendant is not now serving a sentence for any offense. ► Defendant is not now on probation for any offense. ► Defendant is not now charged with committing any offense.
	Ineligible Violations	Convictions for violating Pen. Code §§ 261.5(d), 286(c), 288, 288a(c), 288.5, or 289(j) are ineligible for relief. If the defendant was charged with any offense described in Veh. Code § 12810 (a)-(e), relief is discretionary with the court.
	Case Status	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 **not** eligible for relief: ► The charge(s) were dismissed upon completion of Pen. Code § 1000 diversion. ► Bail was forfeited and a plea was never entered. ► The case has previously been dismissed. ► State prison was imposed.
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 defendant may be required to reimburse the court $120.00 through the Department of Revenue and Recovery for the costs incurred in processing each 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 to the court 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 defendant'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. The hearing date and time will be set by the clerk when the petition is filed.
	Certificate of Rehabilitation and Pardon	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 (SDSC Form #PKT-016) may be obtained from the court or found at www.sdcourt.ca.gov.
Granting of the Petition	A notation will be entered on the record that relief was granted , but granting relief does NOT seal, destroy, or remove any entries from the court, law enforcement, or Department of Justice records; nor does it relieve the defendant of obligations/consequences related to possession/control of firearms, driver license revocation, questionnaire/application for or holding public office, state or local licensure, contracting with the California State Lottery Commission or the duty to register per Pen. Code § 290 et seq. (See Pen. Code § 290.007, 1203.4(a); Veh. Code § 13555.)	

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: FAX NO.(Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):	To keep other people from seeing what you entered on your form, please press the Clear This Form button at the end of the form when finished.
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	
PLAINTIFF **PEOPLE OF THE STATE OF CALIFORNIA**	
DEFENDANT	SUPERIOR COURT CASE NUMBER
PETITION FOR DISMISSAL	CITY/DISTRICT ATTORNEY NUMBER

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 _____ by _____
(City) (State) 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.

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

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GENERAL INFORMATION – PETITIONS FOR CERTIFICATE OF REHABILITATION

The granting of a Certificate of Rehabilitation restores to the applicant some of the rights of citizenship which were forfeited as a result of a conviction. Defendants convicted of a felony, or a misdemeanor sex offense specified in Pen. Code § 290, and who were granted probation, must obtain relief pursuant to Pen. Code § 1203.4 before a Certificate of Rehabilitation may be granted.

Purpose	Does	➢ Relieve specified sex offenders of further duty to register (Pen. Code § 290.5 (a)). ➢ Enhance a person's potential for becoming licensed by state boards (Pen. Code § 4853). ➢ Serve as an official document to demonstrate a person's rehabilitation, which could enhance employment possibilities. ➢ Serve as an automatic recommendation and application to the Governor for a pardon.
	Does not	➢ Erase the felony conviction or seal the criminal record (Pen. Code § 4852.17). ➢ Prevent the offense from being considered as a prior conviction if the person is later convicted of a new offense. ➢ Allow a person to answer on employment applications that he/she has no record of conviction ➢ Restore the right to vote (this right is automatically restored after the person is no longer imprisoned or on parole).
Eligibility Criteria	A person is eligible to apply for a Certificate of Rehabilitation if he/she: ➢ Has been convicted of a felony and served a sentence in a California prison or other state penal institution or agency; ➢ Was discharged on completion of the sentence or released on parole prior to May 13, 1943; ➢ Has not been incarcerated in a state prison or other state penal institution or agency since being released; and ➢ Presents satisfactory evidence of three years residence in California immediately prior to the filing of the petition. **OR** ➢ Was convicted of a felony or a misdemeanor sex offense specified in Pen. Code § 290, the accusatory pleading of which was dismissed pursuant to Pen. Code § 1203.4; ➢ Has not been incarcerated in any penal institution or agency since the dismissal of the accusatory pleading; ➢ Is not on probation for the commission of any other felony; and ➢ Presents satisfactory evidence of five years residence in California immediately prior to the filing of the petition. **OR** ➢ Was convicted of a felony and, on May 13, 1943, was confined in a state prison or other institution or agency to which he/she was committed, or was convicted of a felony after May 13, 1943 and committed to a state prison or other institution or agency.	
Ineligibility Criteria	Persons who are ineligible to apply for a Certificate of Rehabilitation include those who do not meet the above eligibility criteria and those who were/are: ➢ Convicted only of misdemeanors (except those convicted of a misdemeanor sex offense specified in Pen. Code § 290, which was dismissed pursuant to Pen. Code § 1203.4). ➢ Convicted of Pen. Code §§ 286(c), 288, 288a (c), 288.5, or 289(j). ➢ Serving mandatory life parole. ➢ Committed to prison under a death sentence. ➢ In the military service.	
How to apply	A Certificate of Rehabilitation and Pardon Instruction Packet (SDSC Form #PKT-016) may be obtained from this court and may be found at www.sdcourt.ca.gov.	

State of California

Office of Governor Edmund G. Brown Jr.

How to Apply for a Pardon

Individuals who have been convicted of a crime in California may apply to the Governor for a pardon. A gubernatorial pardon is an honor that may be granted to people who have demonstrated exemplary behavior following their conviction. A pardon will not be granted unless it has been earned. Obtaining a pardon is a distinct achievement based upon proof of a productive and law-abiding life following conviction. Historically, governors have granted very few pardons.

Applications generally will not be considered unless the applicant has been discharged from probation or parole for at least 10 years without further criminal activity during that period. There is no fee for applying for a pardon.

The Governor of California cannot grant a pardon for a conviction from another jurisdiction, such as another state or a federal proceeding. A person convicted in another state must apply for a pardon in that state. Federal pardon information may be obtained from the Pardon Attorney, U.S. Department of Justice, 500 First Street Northwest, Washington, D.C. 20530.

The Application Process

For most people, the first step in applying for a pardon is to obtain a Certificate of Rehabilitation from the Superior Court in the county where the applicant currently lives. People who live outside of California and people who are ineligible for a Certificate of Rehabilitation must use a direct or "traditional pardon" application. The procedure utilized will depend on the circumstances of each applicant.

1. Certificate of Rehabilitation

A Certificate of Rehabilitation is a court order declaring that a person convicted of a crime is now rehabilitated. Generally, any person convicted of a felony who still resides in California may apply to the Superior Court in the county where he or she lives for a Certificate of Rehabilitation, provided that the applicant meets the legal requirements of demonstrated rehabilitation. There are special rules that apply to individuals convicted of sex offenses.

An application for a Certificate of Rehabilitation can usually be obtained from the court clerk, probation department, or public defender's office. Once a petition is filed, the court may require an investigation by the district attorney and will schedule a hearing.

If the Court issues a Certificate of Rehabilitation, the certificate is forwared to the Governor's Office where it automatically becomes an application for a pardon. The Governor's receipt of a Certificate of Rehabilitation does not guarantee that a pardon will be granted.

2. Traditional Pardon

The traditional pardon procedure is available to people who are ineligible for a Certificate of Rehabilitation. This procedure is used primarily by people who were convicted of a crime in California and now reside outside the state. The traditional pardon procedure is also available to people who are not eligible for a Certificate of Rehabilitation because they have been convicted of specified sex offenses or misdemeanor offenses.

Applicants for a traditional pardon may obtain the application either by accessing the Governor's website at www.gov.ca.gov, or by requesting an application in writing at the following address:

Governor's Office
State Capitol
Attention: Legal Affairs
Sacramento, CA 95814

The applicant should first complete the Application for Executive Clemency. Then the applicant must send the Notice of Intent to Apply for Executive Clemency to the District Attorney of each county in which the applicant was convicted so that each District Attorney receives the legally-required notice. The District Attorney acknowledges receipt of the Notice of Intent and returns the notice to the Governor's Office. Finally, the applicant should return the completed application to the Governor's Office at the address listed above.

The Review Process

There is no requirement that the Governor take any action on an application for a pardon. Once a Certificate of Rehabilitation or a completed traditional pardon application is received by the Governor's Office, the Office typically forwards the application to the Board of Parole Hearings (Board). The Board may conduct a background investigation and make a recommendation on whether a pardon should be granted. The Board may contact the District Attorney, investigating law enforcement agency, and other persons with relevant information on the applicant.

If the applicant has been convicted of more than one felony, the California Supreme Court must recommend granting a pardon before the Governor may do so. However, there is no obligation that the Governor seek a recommendation from the Supreme Court, in the first instance.

The length of time needed to complete the pardon process cannot be predicted. **Once a completed application has been received by the Governor's Office, it is not necessary to contact the Governor's Office to check on the status of an application**. If the Governor takes action on an application, the applicant will be notified. Applicants should notify the Governor's Office in writing if their mailing address changes.

Effect of a Pardon

A pardon does not seal the individual's criminal record or expunge the record of conviction, and the pardon is itself a public record. When a pardon is granted, the California Department of Justice and the Federal Bureau of Investigation are notified so that they may update their records on the applicant. The pardon is filed with the Secretary of State, reported to the Legislature, and is a public record. Please see the attached "Quick Reference for Restoration of Rights" for a detailed description of the effects of obtaining a Certificate of Rehabilitation and a pardon.

Revised December 28, 2011

CERTIFICATE OF REHABILITATION AND PARDON

QUICK REFERENCE FOR RESTORATION OF RIGHTS

In California, the granting of a Certificate of Rehabilitation or a Governor's pardon restores to the applicant some rights of citizenship that were forfeited as a result of a conviction.

CERTIFICATE OF REHABILITATION	GOVERNOR'S PARDON
DOES:	***DOES:***
• Relieve <u>some</u> sex offenders, as specified, of further duty to register. (Pen. Code, § 290.5.) • Enhance a felon's potential for licensing consideration by a State board. (Pen. Code, § 4853.) • Serve as an official document to demonstrate a felon's rehabilitation, which could enhance employment possibilities. • Serve as an automatic application for a gubernatorial pardon.	• Allow a felon to serve on a jury trial. (Code Civ. Proc., § 203 subd. (a)(5).) • Allow restoration of firearms rights, upon federal approval, to specified offenders if granted a full and unconditional pardon, ***unless*** the conviction was for a felony involving the use of a dangerous weapon. (Pen. Code, § 4854.) • Allow a felon to be considered for appointment as a county probation officer or a state parole agent, but not to any other peace officer positions. (Gov. Code, § 1029, subd. (c).) • Allow specified sex offenders still required to register after obtaining a Certificate of Rehabilitation to be relieved of their duty to register if granted a full and unconditional pardon. (Pen. Code, § 290.5.)
DOES NOT:	***DOES NOT:***
• Erase the felony conviction or seal the criminal record. (Pen. Code, § 4852.17.) • Prevent the offense from being considered as a prior conviction if the person is later convicted of a new offense. • Allow a felon to answer on employment applications that he/she has no record of conviction. • Give a felon the right to vote, because this right is automatically restored after discharge from parole. • Restore the right to own or possess firearms.	• Seal or erase the record of conviction. (Pen. Code, § 4852.17.) • Prevent the pardoned offense from being considered as a prior conviction if the person is later convicted of a new offense. • Allow a pardoned person to answer on employment applications that he/she has no record of conviction. • Restore ability to own a firearm to felons convicted of any offense involving the use of a dangerous weapon. (Pen. Code, § 4854.) • Pardon convictions from another state, or federal convictions. • Necessarily prevent deportation.

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GENERAL INFORMATION FOR AN APPLICATION FOR A PARDON (PEN. CODE §§ 4800 et seq, 4853)

Any person who has been convicted of a criminal offense in California may apply directly to the Governor for a pardon. The granting of a pardon restores to the applicant some of the rights of citizenship which were forfeited as a result of the conviction. The granting of a Certificate of Rehabilitation pursuant to Pen. Code § 4852.01 automatically serves as a recommendation and application to the Governor for a pardon.

Purpose	Does	➢ Allow an ex-felon to serve on a jury. (Code Civ. Proc. § 203(a)(5)) ➢ Allow restoration of firearm right, with federal approval, to specified offenders if granted a full and unconditional pardon, unless the conviction was for a felony involving the use of a dangerous weapon. (Pen. Code § 4854) ➢ Allow certain ex-felons to be considered for appointment as a county probation officer or state parole agent, but not to any other peace officer positions. (Gov. Code § 1029) ➢ Allow specified sex offenders still required to register after obtaining a Certificate of Rehabilitation to be relieved of the duty to register. (Pen. Code § 290.5(b)(1))
	Does not	➢ Seal or erase the record of conviction. (Pen. Code § 4852.17) ➢ Prevent the pardoned offense from being considered as a prior conviction if the person is later convicted of a new offense. ➢ Allow a pardoned person to answer on employment applications that he/she has no record of conviction. ➢ Restore ability to own a firearm to ex-felons convicted of any offense involving the use of a dangerous weapon. (Pen. Code § 4854) ➢ Pardon convictions from another state or federal convictions. ➢ Necessarily prevent deportation.
Traditional Pardon	The traditional pardon procedure, see Pen. Code §§ 4800-4813, is available to those persons who are ineligible to petition for a Certificate of Rehabilitation. This procedure is used primarily, although not exclusively, by California ex-felons who reside out-of-state and are therefore unable to satisfy the residency requirement. The traditional pardon procedure is also available to those individuals who have convictions for Pen. Code §§ 286(c), 288, 288a(c), 288.5 and 289(j).	
How to apply	A Certificate of Rehabilitation and Pardon Instruction Packet (SDSC #PKT-016) may be obtained from this court and is available at www.sdcourt.ca.gov.	