

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

**FELONY  
PETITION FOR DISMISSAL PACKET  
(PENAL CODE § 1203.41)**



**FORMS INCLUDED IN THIS PACKET**

Petition for Dismissal - General Information (Felony – PC1203.41)	SDSC Form #CRM-264
Petition for Dismissal - Petition (Felony – PC1203.41)	SDSC Form #CRM-265
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, CENTRAL COURTHOUSE, 1100 UNION ST., 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

### PETITION FOR DISMISSAL - GENERAL INFORMATION (FELONY - PC 1203.41)

Eligibility	Pen. Code § 1203.41	<p>If defendant was sentenced pursuant to Pen. Code § 1170(h)(5), the court may, in its discretion and in the interest of justice, grant relief if:</p> <ul style="list-style-type: none"> <li>▶ Two years has lapsed since completion of a sentence imposed pursuant to Pen. Code § 1170(h)(5)(A); OR one year has lapsed since completion of a sentence imposed pursuant to Pen. Code § 1170(h)(5)(B).</li> <li>▶ Defendant is not currently under supervision pursuant to Pen. Code § 1170(h)(5)(B).</li> <li>▶ Defendant is not currently serving a sentence for, on probation for, or charged with the commission of any offense.</li> </ul>
	Ineligibility	A defendant is ineligible for relief under Pen. Code § 1203.41 if probation was granted or state prison was imposed.
	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>▶ 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 (Pen. Code § 1203.41)" (SDSC Form #CRM-265) for all applications for dismissal. Multiple case numbers for the same defendant must be placed on separate petition(s).
	Supporting Documents	Any documents in support of the petition showing why the court should grant relief in the interest of justice must be submitted with the petition.
	Notice to the Prosecuting Agency	Pursuant to Pen. Code § 1203.41(e), the 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 <a href="http://www.sdcourt.ca.gov">www.sdcourt.ca.gov</a> .
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 provide specimens, samples, or print impressions required by DNA and Forensic Identification Database and Data Bank Act. (Pen. Code § 299(f), 1203.41(b); Veh. Code § 13555.)	

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):	(FOR COURT USE ONLY)
TELEPHONE NO.: _____ FAX NO.(Optional): _____	
E-MAIL ADDRESS (Optional): _____	
ATTORNEY FOR (Name): _____	
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO</b> <input type="checkbox"/> CENTRAL DIVISION, CENTRAL COURTHOUSE, 1100 UNION ST., 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	
PLAINTIFF <b>PEOPLE OF THE STATE OF CALIFORNIA</b>	
DEFENDANT	SUPERIOR COURT CASE NUMBER
<b>PETITION FOR DISMISSAL - PETITION (FELONY - PC 1203.41)</b>	CITY/DISTRICT ATTORNEY NUMBER

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

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

Defendant is not currently serving a sentence for, on probation for, or charged with the commission of any offense; and defendant was sentenced pursuant to:

- Pen. Code § 1170(h)(5)(A) and two years has lapsed since completion of the sentence; or
- Pen. Code § 1170(h)(5)(B), is no longer under mandatory supervision, and one year has lapsed since completion of the sentence.

Relief should be granted in the interest of justice based on the following (if more room is necessary, please attach a supplemental declaration):

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



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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	<ul style="list-style-type: none"> <li>➤ Relieve specified sex offenders of further duty to register (Pen. Code § 290.5 (a)).</li> <li>➤ Enhance a person's potential for becoming licensed by state boards (Pen. Code § 4853).</li> <li>➤ Serve as an official document to demonstrate a person's rehabilitation, which could enhance employment possibilities.</li> <li>➤ Serve as an automatic recommendation and application to the Governor for a pardon.</li> </ul>
	Does not	<ul style="list-style-type: none"> <li>➤ Erase the felony conviction or seal the criminal record (Pen. Code § 4852.17).</li> <li>➤ Prevent the offense from being considered as a prior conviction if the person is later convicted of a new offense.</li> <li>➤ Allow a person to answer on employment applications that he/she has no record of conviction.</li> <li>➤ Restore the right to vote (this right is automatically restored after the person is no longer imprisoned or on parole).</li> </ul>
Eligibility Criteria	<p>A person is eligible to apply for a Certificate of Rehabilitation if he/she:</p> <ul style="list-style-type: none"> <li>➤ Has been convicted of a felony and served a sentence in a California prison or other state penal institution or agency;</li> <li>➤ Was discharged on completion of the sentence or released on parole prior to May 13, 1943;</li> <li>➤ Has not been incarcerated in a state prison or other state penal institution or agency since being released; and</li> <li>➤ Presents satisfactory evidence of three years<sup>1</sup> residence in California immediately prior to the filing of the petition.</li> </ul> <p><b>OR</b></p> <ul style="list-style-type: none"> <li>➤ 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;</li> <li>➤ Has not been incarcerated in any penal institution or agency since the dismissal of the accusatory pleading;</li> <li>➤ Is not on probation for the commission of any other felony; and</li> <li>➤ Presents satisfactory evidence of five years<sup>2</sup> residence in California immediately prior to the filing of the petition.</li> </ul> <p><b>OR</b></p> <ul style="list-style-type: none"> <li>➤ 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.</li> </ul>	
Ineligibility Criteria	<p>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:</p> <ul style="list-style-type: none"> <li>➤ 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).</li> <li>➤ Convicted of Pen. Code §§ 286(c), 288, 287(c) or former 288a, 288.5, or 289(j).</li> <li>➤ Serving mandatory life parole.</li> <li>➤ Committed to prison under a death sentence.</li> <li>➤ In the military service.</li> </ul>	
How to apply	<p>A Certificate of Rehabilitation and Pardon Instruction Packet (SDSC Form #PKT-016) may be obtained from this court and may be found at <a href="http://www.sdcourt.ca.gov">www.sdcourt.ca.gov</a>.</p>	



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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	<ul style="list-style-type: none"> <li>➤ Allow an ex-felon to serve on a jury. (Code Civ. Proc. § 203(a)(5))</li> <li>➤ 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)</li> <li>➤ 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)</li> <li>➤ 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))</li> </ul>
	Does not	<ul style="list-style-type: none"> <li>➤ Seal or erase the record of conviction. (Pen. Code § 4852.17)</li> <li>➤ Prevent the pardoned offense from being considered as a prior conviction if the person is later convicted of a new offense.</li> <li>➤ Allow a pardoned person to answer on employment applications that he/she has no record of conviction.</li> <li>➤ Restore ability to own a firearm to ex-felons convicted of any offense involving the use of a dangerous weapon. (Pen. Code § 4854)</li> <li>➤ Pardon convictions from another state or federal convictions.</li> <li>➤ Necessarily prevent deportation.</li> </ul>
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, 287(c) or former 288a, 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 <a href="http://www.sdcourt.ca.gov">www.sdcourt.ca.gov</a> .	