

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all the terms of probation stated in your case, please read on to determine if you qualify to have your conviction withdrawn and dismissed.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, or 1203.42:

PC1203.4 - Defendant has been discharged from probation, AND: Defendant is not now serving a sentence for any offense, AND

Defendant is not now on probation for any offense, AND

Defendant is not now charged with committing any offense.

PC1203.4a - If probation was not granted, and more than one (1) year has elapsed since the date of sentencing, Defendant may be eligible for dismissal if:

Defendant has fully complied with and performed the sentence of the court, AND

Defendant is not now serving a sentence for any offense, AND

Defendant is not now charged with committing any offense.

PC1203.42 – Defendants sentenced to State Prison prior to 2011 Realignment Act for a PC1170(h) eligible offense, AND more than two (2) years have lapsed following the completion of the sentence may be eligible for dismissal if:

Defendant is not now under supervised release, AND

Defendant is not now serving a sentence for any offense, AND

Defendant is not now on probation for any offense, AND

Defendant is not now charged with committing any offense.

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) ▶ PC288.5
- ▶ PC288a(c) ▶ PC289 (j)
- ▶ PC288 ▶ PC261.5d
- ▶ Any misdemeanor falling within the provisions of Section 42002.1 of the Vehicle Code
- ▶ Any infraction falling within the provisions of Section 42001 of the Vehicle Code
- ▶ Violations for which a defendant has served time in prison, excluding County Prison eligible violations under the 2011 Realignment Act

Case Status

The case must be an ADJUDICATED MATTER. This means that the defendant has either entered a plea of guilty or no contest, or a guilty verdict was entered, and the defendant was sentenced. The following case dispositions are not eligible for relief:

The charge(s) were dismissed upon completion of PC1000 diversion.

Bail was forfeited and a plea was never entered.

The case has previously been dismissed.

Application

Location for San Bernardino County Superior Court Filings

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

Form

Court policy requires the filing of the “Petition for Dismissal” and the “Order for Dismissal” (Judicial Council form numbers [CR-180](#) and [CR-181](#)) for all applications for dismissal. Multiple case numbers for the same defendant must be placed on a separate petition with an administrative fee per petition filed.

Administrative Fee

At the time of the hearing on the petition(s) you may be billed up to \$194.00 for handling charges for each petition filed. 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.

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 (d), 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.

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.

Processing Time

The processing of the petition may take approximately 4-8 weeks from the date the petition is filed.

Granting Of the Petition

The relief granted by PC1203.4 or PC1203.4a 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 the 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 purposes 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 (10) 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 clerk's minutes in the case.

A Department of Justice abstract of the defendant's criminal history, which may be obtained by contacting:

Department of Justice
Records Review Unit
P.O. Box 903417
Sacramento CA 94206-4170
(800) 952-5225
<http://caag.state.ca.us>

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
** Infractions only to Victorville **
** Criminal Matters to San Bernardino Justice Center **

Chino District
Infractions only to Fontana
Criminal matters to Rancho Cucamonga

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 Road
Joshua Tree CA 92252
Clerk's Office: 760-974-3048

Needles District
Infractions only to Joshua Tree
Criminal matters to Victorville

Rancho Cucamonga District
8303 Haven Ave.
Rancho Cucamonga CA 91730
Criminal Clerk's Office: 909-350-9764

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

Victorville District
14455 Civic Drive
Criminal – Suite 200
Victorville CA 92392
Clerk's Office: 760-245-6215

Website: www.sb-court.org