

# INSTRUCTIONS FOR VACATING MISDEMEANOR AND GROSS MISDEMEANOR CONVICTIONS

## 1. BACKGROUND INFORMATION

Washington law permits the vacation of some misdemeanor or gross misdemeanor convictions. Vacation of a conviction releases you from all penalties and disabilities resulting from the offense. For all purposes, including responding to questions on employment or housing applications, a person whose conviction has been vacated may state that they have never been convicted of that crime.

Once a conviction is vacated, the fact that you have been convicted of the offense shall not be included in your criminal history for purposes of determining a sentence in any subsequent conviction. Although a vacated conviction will not be used for subsequent sentencing purposes, it may be used for other purposes in a later criminal prosecution with the following exception: When a court vacates a record of domestic violence, as defined in RCW 10.99.020, the state may not use the vacated conviction in a later criminal prosecution unless the conviction was for: (i) violating the provisions of a restraining order, no-contact order, or protection order restraining or enjoining the person, or restraining the person from going onto the grounds of or entering a residence, workplace, school, or daycare, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, a protected party's person, or a protected party's vehicle; (ii) stalking; or (iii) domestic violence protection order or vulnerable adult protection order. RCW 9.96.060.

A vacated conviction for domestic violence is not considered a conviction of such an offense for the purposes of 27 C.F.R. § 478.11, regarding reinstatement of firearms or explosives rights.

Vacation of a conviction does not automatically restore your right to possess a firearm.

The law does not automatically vacate your conviction. If you want to have a conviction vacated, you must file a petition with the court. The following information will assist you in asking the court to vacate your conviction.

## 2. CHOOSING THE CORRECT FORM

### a. Cannabis Offenses

If you qualify for vacating a cannabis conviction, use form CrRLJ 09.0800, *Petition and Declaration for Order to Vacate Cannabis Conviction*. A court will vacate the conviction(s), if you meet the following criteria for cannabis offenses:

- You were 21 years of age or older at the time of the offense.
- Cannabis offenses eligible to be vacated include, but are not limited to:
  - Any offense under RCW 69.50.4014 from July 1, 2004 onward;
  - RCW 69.50.401(e) from March 21, 1979 to July 1, 2004;
  - RCW 69.50.401(d) from May 21, 1971 to March 21, 1979; and
  - any equivalent misdemeanor ordinance.

See Section 3 to schedule the hearing, file your petition, and notify the prosecutor's office.

### b. Offenses Committed as the Victim of Certain Crimes

If you were the victim of sex-trafficking, prostitution, commercial sexual abuse of a minor, sexual assault, or domestic violence and you committed an offense because you were such a victim, you can file a petition asking the court to vacate the conviction. Use form CrRLJ 09.0100, *Petition and Declaration for Order Vacating Conviction*. Review and fill out Sections 1, 2, and 3

of the form. Review each of the requirements listed on the petition to make sure you are eligible. Complete the statement explaining how the crime you committed was caused by being a victim of either sex-trafficking, prostitution, commercial sexual abuse of a minor, sexual assault, or domestic violence.

Note: You may request assistance from the prosecuting authority in preparing and/or filing a petition.

c. All Other Misdemeanor and Gross Misdemeanor Offenses

If you want to vacate an offense other than a cannabis conviction or a conviction which occurred because you were a victim as described in Section 2.b above, you can file a petition asking the court to vacate the conviction(s) if you have satisfied certain requirements.

To determine if you are eligible, use form CrRLJ 09.0100, *Petition and Declaration for Order Vacating Conviction*. Review and fill out sections 1, 2, 4, 5, 6, and 7 of the form. You will fill out different sections of the form depending on if your offense is a DUI-related “prior offense,” a domestic violence offense, or an offense not otherwise covered by other sections in the form. Review each of the requirements listed on the appropriate section of the form to ensure you are eligible.

In order to complete the form, you may need to obtain information from the court file or the court docket for the offense(s) you are asking the court to vacate. Some courts may require you to obtain copies of your criminal history records and attach them to your petition. Read the local court rules or contact the clerk of the court where you will file your petition to find out if this requirement or any other local requirement applies to you. Once you have completed and signed the petition and declaration form, make at least 2 copies (1 copy for the prosecutor’s office and 1 copy for yourself).

**3. SCHEDULE THE HEARING, FILE YOUR PETITION, AND PROVIDE A COPY TO THE PROSECUTOR’S OFFICE**

The next step is to schedule a hearing for the petition. To schedule a hearing, contact the clerk of the court where you were sentenced and ask for the date and time for the hearing. Then, complete the form that the court uses to schedule a hearing. If the court does not require a specific form, you may use CrRLJ 09.0150, *Notice of Hearing to Vacate Conviction*. Make at least 2 copies of the scheduling notice (1 copy for the prosecutor’s office and 1 copy for yourself).

File the original petition and declaration, and the original notice document with the clerk of the court. On the same day that you file those documents with the clerk of the court, you must also provide a copy of each document (the petition and declaration, and the scheduling notice) to the prosecuting attorney’s office that prosecuted you. Keep a copy of the scheduling notice, the petition and declaration, and any attachments for your information.

The judge will hear your petition on the day scheduled for the hearing. You will need to attend the hearing. If the petition is granted, the judge will complete an order vacating your conviction. The clerk of the court will send a copy of the order to the Washington State Patrol and to the local law enforcement agency, if any, which holds criminal history information about you.

<b>State of Washington</b> <b>Snohomish County District Court</b> <input type="checkbox"/> Cascade <input type="checkbox"/> Evergreen <input type="checkbox"/> Everett <input type="checkbox"/> South
_____ <b>Plaintiff</b> vs. _____ <b>Defendant</b>

No. \_\_\_\_\_  
**Notice of Hearing to Vacate  
Conviction  
(NTHG)**

TO: The court clerk of [ ] \_\_\_\_\_ County Superior Court  
[ ] \_\_\_\_\_ District/Municipal Court

TO: \_\_\_\_\_ City/County Prosecuting Attorney's Office  
(Defendant, you must provide a copy to the Prosecutor's office before the hearing in the time set by state or local rule.)

**Please take notice** that on \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m., at \_\_\_\_\_ Court, \_\_\_\_\_, the undersigned will ask the court for an order vacating conviction/s in this matter pursuant to RCW 9.96.060.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Defendant/Attorney for Defendant/WSBA #

\_\_\_\_\_  
Print Name

<b>State of Washington</b> <b>Snohomish County District Court</b> <input type="checkbox"/> Cascade <input type="checkbox"/> Evergreen <input type="checkbox"/> Everett <input type="checkbox"/> South
<hr/> <b>Plaintiff</b> vs. <hr/> <b>Defendant</b>

**No.**  
**Petition and Declaration  
for Order Vacating Conviction  
(PT)**

**Petition and Declaration for Order Vacating Conviction**

**I. Petition**

1. Defendant asks the court for an order vacating defendant's conviction(s) of misdemeanor or gross misdemeanor offenses. This petition is based on RCW 9.96.060 and RCW 9.96.080, the case record and files, and the declaration of defendant.

Dated: \_\_\_\_\_

\_\_\_\_\_

Defendant/Defendant's Attorney, WSBA #

\_\_\_\_\_

Print Name

**II. Declaration of Defendant**

2. I, (name) \_\_\_\_\_, state as follows:  
On (date) \_\_\_\_\_ I was convicted of the following offense(s):

Count No: \_\_\_\_ Offense: \_\_\_\_\_

Count No: \_\_\_\_ Offense: \_\_\_\_\_

Count No: \_\_\_\_ Offense: \_\_\_\_\_

**Offense Committed as a Victim of Certain Crimes**

3. [ ] **Conviction as Victim.** The offense for which I was convicted was a misdemeanor or gross misdemeanor, and the conviction was a result of being a victim of sex trafficking, prostitution, or commercial sexual abuse of a minor; sexual assault; or domestic violence as defined in RCW 9.94A.030, and all of the following are true:

- I am providing to the sentencing court or the sentencing court's successor, my

statement of the specific facts and circumstances below that prove by a preponderance of the evidence that the offense was committed as a result of being a victim of one of the above offenses:

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[ ] See attached.

- I have no criminal charges pending in any court of this or another state, or in any federal court for any crime other than prostitution.
- The offense for which I was convicted was a misdemeanor, and I have not been convicted of a new crime in this state, another state, or tribal court in the 3 years prior to date of the filing of this petition. RCW 9.96.060(2)(h).
- I have provided proof that the crime victim penalty assessment (RCW 7.68.035) has been paid in full, except where the conviction being vacated is for the crime of prostitution, prostitution loitering, or stay out of the area of prostitution.
- Restitution owed to any victim, excluding restitution owed to any insurance provider under Title 48 RCW, has been paid in full.
- The offense was not any misdemeanor or gross misdemeanor violation, including attempt, of chapter 9.68 RCW (obscenity and pornography), chapter 9A.44 RCW (sex offense), except for failure to register as a sex offender under RCW 9A.44.132.
- The offense was not a conviction as described in RCW 46.61.5055.
- The offense was not patronizing a prostitute as described in RCW 9A.88.110.

#### Other Misdemeanor and Gross Misdemeanor Offenses

4. **Excluded Offenses:** I cannot vacate a conviction for the following offenses. RCW 9.96.060(2)(c)-(e):
- A violation of chapter 9A.44 RCW (sex offenses), except for failure to register as a sex offender under RCW 9A.44.132.
  - A violation of chapter 9.68 RCW (obscenity and pornography).
  - A violation of chapter 9.68A RCW (sexual exploitation of children).
  - A violent offense as defined in RCW 9.94A.030, or an attempt to commit a violent offense.
  - Driving while under the influence (“DUI”) (RCW 46.61.502).
  - Actual physical control while under the influence (RCW 46.61.504).
  - Operating a railroad, etc., while intoxicated (RCW 9.91.020).
5. [ ] **Prior Offense:** The offense for which I was convicted is considered a “prior offense” under RCW 46.61.5055 (see below), and all of the following are true:
- The prior offense is not a DUI (RCW 46.61.502) or Physical Control (RCW 46.61.504). RCW 9.96.060(2)(d).

- I have not been convicted of any new crime in this state, another state, or federal or tribal court in the 3 years prior to this vacation application. RCW 9.96.060(2)(h).
- At least 3 years have passed since I completed the terms and conditions of the sentence, including restitution/legal financial obligations. RCW 9.96.060(2)(g).
- I have not had a subsequent alcohol or drug violation within 10 years of the date of arrest for the prior offense. RCW 9.96.060(2)(d).
- More than 10 years have passed since the date of the arrest for the prior offense. RCW 9.96.060(2)(d).
- There are no criminal charges pending against me in any court of this state or another state, or in any federal or tribal court as of the date I file this petition. RCW 9.96.060(2)(b).
- I am not currently restrained by a domestic violence protection order, a no-contact order, an anti-harassment protection order, or a civil restraining order which restrains one party from contacting the other party. I was not previously restrained by such an order and found to have committed 1 or more violations of the order in the last 5 years. RCW 9.96.060(2)(i).

A “prior offense” means (RCW 46.61.5055(14)):

**Original Convictions**, including equivalent local ordinances, for:

- Driving Under the Influence (DUI) (RCW 46.61.502) or an equivalent out-of-state conviction.
- Physical Control of a Vehicle under the Influence (Physical Control) (RCW 46.61.504) or an equivalent out-of-state conviction.
- Commercial Vehicle DUI/Physical Control (RCW 46.25.110).
- Watercraft DUI (RCW 79A.60.040(2)).
- Aircraft DUI (RCW 47.68.220).
- Nonhighway vehicle DUI (RCW 46.09.470(2)).
- Snowmobile DUI (RCW 46.10.490(2)).

**Amended Convictions:**

- **Originally charged with** DUI (RCW 46.61.502) or Physical Control (RCW 46.61.504) or an equivalent local ordinance, or Vehicular Homicide (RCW 46.61.520) or Vehicular Assault (RCW 46.61.522); **but convicted of** Negligent Driving 1st (RCW 46.61.5249), Reckless Driving (RCW 46.61.500), or Reckless Endangerment (RCW 9A.36.050) or an equivalent local ordinance. This section also applies for equivalent out-of-state convictions.
- **Originally charged with** Watercraft DUI (RCW 79A.60.040(2)) or an equivalent local ordinance, **but convicted of** Operating a Watercraft in a reckless manner (RCW 79A.60.040(1)) or an equivalent local ordinance.
- **Originally charged with** Aircraft DUI (RCW 47.68.220) or an equivalent local ordinance, **but convicted of** Operating an Aircraft in a careless or reckless manner (RCW 47.68.220) or an equivalent local ordinance.

**Deferred Prosecution Granted for:**

- Driving Under the Influence (DUI) (RCW 46.61.502), including local and out-of-state equivalents.
- Physical Control of a Vehicle under the Influence (Physical Control) (RCW 46.61.504), including local and out-of-state equivalents.

- Negligent Driving 1st (RCW 46.61.5249) or equivalent local ordinance if the charge under which the deferred prosecution was granted was originally filed as a violation of DUI (RCW 46.61.502) or (Physical Control) (RCW 46.61.504), or an equivalent local ordinance, or Vehicular Homicide (RCW 46.61.520) or Vehicular Assault (RCW 46.61.522).
- An equivalent out-of-state deferred prosecution for DUI or Physical Control, including a substance use disorder treatment program. (RCW 46.61.5055(14)(a)(xvi)).

**Deferred Sentences for:**

Originally charged with DUI (RCW 46.61.502) or Physical Control (RCW 46.61.504) or an equivalent local ordinance, or Vehicular Homicide (RCW 46.61.520) or Vehicular Assault (RCW 46.61.522); but deferred sentence was imposed for Negligent Driving 1st (RCW 46.61.5249), Reckless Driving (RCW 46.61.500), Reckless Endangerment (RCW 9A.36.050), or an equivalent local ordinance.

6.  **Domestic Violence:** The offense for which I was convicted involves domestic violence and I have complied with the following conditions (RCW 9.96.060(2)(f)) and all the following statements are true:

- I provided the prosecuting attorney's office that prosecuted the offense with written notice of this petition. RCW 9.96.060(2)(f)(i).
- I filed the original notice with this court. RCW 9.96.060(2)(f)(i).
- I have not been convicted of 2 or more domestic violence offenses stemming from different incidents. RCW 9.96.060(2)(f)(ii).
- I have never signed an affidavit under penalty of perjury affirming that I have not previously had a conviction for a domestic violence offense, and a criminal history check reveals that I have had such a conviction, RCW 9.96.060(2)(f)(iii);
- It has been at least 5 years since I completed the terms and conditions of the sentence, including restitution/legal financial obligations and successful completion of any treatment ordered. RCW 9.96.060(2)(f)(iv).
- I have not been convicted of any new crime in this state, another state, or federal or tribal court in the 3 years prior to this vacation application. RCW 9.96.060(2)(h).
- There are no criminal charges pending against me in any court of this state or another state, or in any federal or tribal court as of the date I file this petition. RCW 9.96.060(2)(b).
- I am not currently restrained by a domestic violence protection order, a no-contact order, an anti-harassment protection order, or a civil restraining order which restrains one party from contacting the other party. I was not previously restrained by such an order and found to have committed 1 or more violations of the order in the last 5 years. RCW 9.96.060(2)(i).

7.  **Offenses not otherwise specified above,** and all the following statements are true:

- At least 3 years have passed since I completed the terms and conditions of the sentence, including restitution/legal financial obligations. RCW 9.96.060(2)(g).
- I have not been convicted of any new crime in this state, another state, or federal or tribal court in the 3 years prior to this vacation application. RCW 9.96.060(2)(h).
- There are no criminal charges pending against me in any court of this state or another state, or in any federal or tribal court as of the date I file this petition.

RCW 9.96.060(2)(b).

- I am not currently restrained by a domestic violence protection order, a no-contact order, an anti-harassment protection order, or a civil restraining order which restrains one party from contacting the other party. I was not previously restrained by such an order and found to have committed one or more violations of the order in the last 5 years. RCW 9.96.060(2)(i).

I declare under penalty of perjury under the laws of the state of Washington that the foregoing and any attachments are, to the best of my knowledge, true and correct.

Signed at (*city or county*) \_\_\_\_\_, Washington on (*date*) \_\_\_\_\_.

\_\_\_\_\_  
Defendant's Signature

\_\_\_\_\_  
Print Name

Mailing Address, unless confidential:

\_\_\_\_\_  
*Street Address or PO Box* *City* *State* *Zip*



<b>State of Washington</b> <b>Snohomish County District Court</b> <input type="checkbox"/> Cascade <input type="checkbox"/> Evergreen <input type="checkbox"/> Everett <input type="checkbox"/> South
<hr/> <b>Plaintiff</b> vs. <hr/> <b>Defendant</b>

No. \_\_\_\_\_

**Order on Petition Re: Vacating Conviction**

**Granted** (in full or in part) (ORVCJG)

**Denied** (ORVCJD)

**Clerk's action required:**  8

**Order on Petition Re: Vacating Conviction**

**I. Basis**

1. This matter comes before the court on the defendant's petition for an order vacating misdemeanor or gross misdemeanor conviction(s) under RCW 9.96.060 and RCW 9.96.080. The court heard the arguments of the parties and considered the case records, files, and pleadings submitted on the matter.

**II. Findings**

2. Adequate notice  was  was not given to the appropriate parties and agencies.

**Offense Committed as a Victim of Certain Crimes**

3.  **Conviction as Victim.** The offense for which the defendant was convicted was a misdemeanor or gross misdemeanor, and the conviction was a result of being a victim of sex trafficking, prostitution, or commercial sexual abuse of a minor; sexual assault; or domestic violence as defined in RCW 9.94A.030, and the following are true:
- The defendant provided to the sentencing court or the sentencing court's successor, the defendant's statement of the specific facts and circumstances that prove by a preponderance of the evidence that the offense was committed as a result of being a victim of one of the above offenses by affidavit.
  - The defendant has no criminal charges pending in any court of this state or another state, or in any federal court for any crime other than prostitution.
  - The offense for which the defendant was convicted was a misdemeanor, and the defendant has not been convicted of a new crime in this state, another state, or tribal court in the 3 years prior to date of the filing of this petition.
  - The defendant provided proof that the crime victim penalty assessment (RCW 7.68.035) has been paid in full, except where the conviction being vacated is for

the crime of prostitution, prostitution loitering, or stay out of the area of prostitution.

- Restitution owed to any victim, excluding restitution owed to any insurance provider under Title 48 RCW, has been paid in full by the defendant.
- The offense was not any misdemeanor or gross misdemeanor violation, including attempt, of chapter 9.68 RCW (obscenity and pornography), chapter 9A.44 RCW (sex offense), except for failure to register as a sex offender under RCW 9A.44.132.
- The offense was not a conviction as described in RCW 46.61.5055.
- The offense was not patronizing a prostitute as described in RCW 9A.88.110.

#### **Other Misdemeanor and Gross Misdemeanor Offenses**

4.  **Excluded Offenses:** The defendant is ineligible to vacate the offense because it is one of the following offenses below.

RCW 9.96.060(2)(c)-(e):

- A violation of chapter 9A.44 RCW (sex offenses), except for failure to register as a sex offender under RCW 9A.44.132.
- A violation of chapter 9.68 RCW (obscenity and pornography).
- A violation of chapter 9.68A RCW (sexual exploitation of children).
- A violent offense as defined in RCW 9.94A.030, or an attempt to commit a violent offense.
- Driving while under the influence (“DUI”) (RCW 46.61.502).
- Actual physical control while under the influence (RCW 46.61.504).
- Operating a railroad, etc. while intoxicated (RCW 9.91.020).

5.  **Prior Offense:** The offense for which the defendant was convicted is considered a “prior offense” under RCW 46.61.5055 (see below), and the following are true:

- The prior offense is not a DUI (RCW 46.61.502) or Physical Control (RCW 46.61.504). RCW 9.96.060(2)(d).
- The defendant has not been convicted of any new crimes in this state, another state, or federal or tribal court in the 3 years prior to the vacation application. RCW 9.96.060(2)(h).
- At least 3 years have passed since the defendant completed the terms and conditions of the sentence, including restitution/legal financial obligations. RCW 9.96.060(2)(g).
- The defendant has not had a subsequent alcohol or drug violation within 10 years of the date of arrest for the prior offense. RCW 9.96.060(2)(d).
- More than 10 years has elapsed since the date of the arrest for the prior offense. RCW 9.96.060(2)(d).
- There are no criminal charges pending against the defendant in any court of this state or another state, or in any federal or tribal court as of the date the defendant filed the petition. RCW 9.96.060(2)(b).
- The defendant is not currently restrained by a domestic violence protection order, a no-contact order, an anti-harassment protection order, or a civil restraining order which restrains one party from contacting the other party. The defendant was not previously restrained by such an order and found to have committed 1 or more violations of the order in the last 5 years. RCW 9.96.060(2)(i).

A "prior offense" means (RCW 46.61.5055(14)):

**Original Convictions**, including equivalent local ordinances, for:

- Driving Under the Influence (DUI) (RCW 46.61.502) or an equivalent out-of-state conviction.
- Physical Control of a Vehicle under the Influence (Physical Control) (RCW 46.61.504) or an equivalent out-of-state conviction.
- Commercial Vehicle DUI/Physical Control (RCW 46.25.110).
- Watercraft DUI (RCW 79A.60.040(2)).
- Aircraft DUI (RCW 47.68.220).
- Nonhighway vehicle DUI (RCW 46.09.470(2)).
- Snowmobile DUI (RCW 46.10.490(2)).

**Amended Convictions:**

- **Originally charged with** DUI (RCW 46.61.502) or Physical Control (RCW 46.61.504) or an equivalent local ordinance, or Vehicular Homicide (RCW 46.61.520) or Vehicular Assault (RCW 46.61.522), **but convicted of** Negligent Driving 1st (RCW 46.61.5249), Reckless Driving (RCW 46.61.500), or Reckless Endangerment (RCW 9A.36.050) or an equivalent local ordinance. This section also applies for equivalent out-of-state convictions.
- **Originally charged with** Watercraft DUI (RCW 79A.60.040(2)) or an equivalent local ordinance, **but convicted of** Operating a Watercraft in a reckless manner (RCW 79A.60.040(1)) or an equivalent local ordinance.
- **Originally charged with** Aircraft DUI (RCW 47.68.220) or an equivalent local ordinance, **but convicted of** Operating an Aircraft in a careless or reckless manner (RCW 47.68.220) or an equivalent local ordinance.

**Deferred Prosecution Granted for:**

- Driving Under the Influence (DUI) (RCW 46.61.502), including local and out-of-state equivalents.
- Physical Control of a Vehicle under the Influence (Physical Control) (RCW 46.61.504), including local and out-of-state equivalents.
- Negligent Driving 1st (RCW 46.61.5249) or equivalent local ordinance if the charge under which the deferred prosecution was granted was originally filed as a violation of DUI (RCW 46.61.502) or (Physical Control) (RCW 46.61.504), or an equivalent local ordinance, or Vehicular Homicide (RCW 46.61.520) or Vehicular Assault (RCW 46.61.522).
- An equivalent out-of-state deferred prosecution for DUI or Physical Control, including a substance use disorder treatment program. (RCW 46.61.5055(14)(a)(xvi)).

**Deferred Sentences for:**

Originally charged with DUI (RCW 46.61.502) or Physical Control (RCW 46.61.504) or an equivalent local ordinance, or Vehicular Homicide (RCW 46.61.520) or Vehicular Assault (RCW 46.61.522), but deferred sentence was imposed for Negligent Driving 1st (RCW 46.61.5249), Reckless Driving (RCW 46.61.500), Reckless Endangerment (RCW 9A.36.050), or an equivalent local ordinance.

6.

**Domestic Violence:** The offense for which the defendant was convicted does involve domestic violence and the defendant complied with the following conditions (RCW 9.96.060(2)(f)) and the following are true:

The defendant provided the prosecuting attorney's office that prosecuted the

offense with written notice of defendant's petition. RCW 9.96.060(2)(f)(i).

- The defendant filed the original notice with this court. RCW 9.96.060(2)(f)(i).
- The defendant has not been convicted of 2 or more domestic violence offenses stemming from different incidents. RCW 9.96.060(2)(f)(ii).
- The defendant has never signed an affidavit under penalty of perjury affirming that the applicant has not previously had a conviction for a domestic violence offense, and a criminal history check reveals that the applicant has had such a conviction. RCW 9.96.060(2)(f)(iii).
- It has been at least 5 years since the defendant completed the terms and conditions of the sentence, including restitution/legal financial obligations and successful completion of any treatment ordered. RCW 9.96.060(2)(f)(iv).
- The defendant has not been convicted of any new crime in this state, another state, or federal or tribal court in the 3 years prior to this vacation application.
- There are no criminal charges pending against the defendant in any court of this state or another state, or in any federal or tribal court as of the date the defendant filed the petition. RCW 9.96.060(2)(b).
- The defendant is not currently restrained by a domestic violence protection order, a no-contact order, an anti-harassment protection order, or a civil restraining order which restrains one party from contacting the other party. The defendant was not previously restrained by such an order and found to have committed 1 or more violations of the order in the last 5 years. RCW 9.96.060(2)(i).

7.  **Offenses not otherwise specified above, and the following are true:**

- At least 3 years have passed since the defendant completed the terms and conditions of the sentence, including restitution/legal financial obligations. RCW 9.96.060(2)(g).
- The defendant has not been convicted of any new crime in this state, another state, or federal or tribal court in the 3 years prior to the vacation application. RCW 9.96.060(2)(h).
- There are no criminal charges pending against the defendant in any court of this state or another state, or in any federal or tribal court as of the date the defendant filed the petition. RCW 9.96.060(2)(b).
- The defendant is not currently restrained by a domestic violence protection order, a no-contact order, an anti-harassment protection order, or a civil restraining order which restrains one party from contacting the other party. The defendant was not previously restrained by such an order and found to have committed 1 or more violations of the order in the last 5 years. RCW 9.96.060(2)(i).

**III. Order**

8. Based on the above findings, it is ordered:

The petition for order vacating conviction records of the following offense(s) is/are granted.

Count No: \_\_\_\_\_ Offense: \_\_\_\_\_

Count No: \_\_\_\_\_ Offense: \_\_\_\_\_

Count No: \_\_\_\_\_ Offense: \_\_\_\_\_

IT IS ORDERED FURTHER that:

The defendant's guilty plea(s) for the offense(s) is/are withdrawn and a not guilty plea is entered, or the guilty verdict for the offense(s) is/are set aside. The charging document is dismissed and the judgment and sentence is vacated for the offense(s) listed above.

The defendant shall be released from all penalties and disabilities resulting from the offense(s) listed above. For all purposes, including responding to questions on employment or housing applications, the defendant may state that they have never been convicted of that offense.

However, this order does not affect the requirements for restoring the right to possess a firearm under RCW 9.41.040.

The fact that the defendant has been convicted of the offense shall not be included in defendant's criminal history for purposes of determining a sentence in any subsequent conviction, except that a vacated conviction qualifies as a prior conviction for the purpose of charging a later recidivist offense as defined in RCW 9.94A.030. A vacated conviction may be used for other purposes in a later criminal prosecution with the following exception: when a court vacates a record of domestic violence as defined in RCW 10.99.020, the state may not use the vacated conviction in a later criminal prosecution unless the conviction was for: (i) violating the provisions of a restraining order, a no-contact order, or protection order restraining or enjoining the person or restraining the person from going on to the grounds of or entering a residence, workplace, school, or daycare, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, a protected party's person, or a protected party's vehicle; (ii) stalking; or (iii) domestic violence protection order or vulnerable adult protection order. RCW 9.96.060.

A vacated conviction for domestic violence is not considered a conviction of such an offense for the purposes of 27 C.F.R. § 478.11, regarding reinstatement of firearms or explosives rights.

The clerk of the court shall immediately transmit a certified copy of this order to the Washington State Patrol and to *(local law enforcement agency)* \_\_\_\_\_ which agencies shall immediately update their records to reflect the vacation of the conviction of the offense listed in this section. The Washington State Patrol shall transmit a copy of this order to the Federal Bureau of Investigation (FBI). The Washington State Patrol and local law enforcement agency may not disseminate or disclose a conviction that has been vacated under RCW 9.96.060 to any person, except to other criminal justice enforcement agencies. RCW 9.96.060(8).

9. [ ] The petition for order vacating conviction records of the following offense(s) is/are denied.

Count No: \_\_\_\_\_ Offense: \_\_\_\_\_

Count No: \_\_\_\_\_ Offense: \_\_\_\_\_

Count No: \_\_\_\_\_ Offense: \_\_\_\_\_

Dated: \_\_\_\_\_

**Judge/Commissioner**

Submitted by: \_\_\_\_\_

Approved: \_\_\_\_\_

\_\_\_\_\_  
Defendant/Attorney for Defendant/WSBA #

\_\_\_\_\_  
Deputy Prosecuting Attorney/WSBA #

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name