

HOW DO I EARN CREDIT FOR SELF-STUDY OR AUDIO/VISUAL (A/V) COURSES?

For pre-recorded A/V (self-study) programs, although the sponsor should apply for accreditation, **lawyers need to report the credits earned for taking the course.**

To add an approved course to your roster, follow the procedures below:

- ❖ Go to the "mywsba" website at www.mywsba.org/.
- ❖ Log in.
- ❖ Click on the "Access MCLE" link in the "MCLE Info" box on your home profile page.
- ❖ Click on "Add Activity." Search to find the approved course in our system. (See search suggestions on the screen.)

Adding a Recorded Course

Select Recorded Course from the Add New Activity screen.

You can search by Activity ID (**information is included on the first page of the materials that you receive with the recording**) or by specific Activity Details. For the Activity Details search, you can use keywords for the title, sponsor name and date.

After entering your search criteria and selecting Search at the bottom of the screen, a list of possible activities will be provided.

You can select the correct one by clicking the Activity ID. This will take you to the specific activity. Entered the date(s) on which you began and ending viewing this recorded activity.

Then claim the correct credits for which you attended this activity in the Credits Claimed fields and click the Submit button at the bottom of the page.

You will receive a confirmation message at the top of your screen stating, "The activity has been added to your roster."



1.0 Law & Legal CLE Credit – A/V Approval # 1226615

Meeting Location	Date	Time Length	Topic
Recording	Recording	1:08:35	Vacating Criminal Convictions

AGENDA

0:00:00 – 00:18:31	Part I: Basic Information Regarding the Records Project Volunteering
00:18:31 – 1:08:35	Part II: What makes a conviction eligible to vacate? Learn Washington state law regarding vacating records. Part III: How to fill out and file the motions and orders to vacate for misdemeanors, felonies. In addition, learn how to fill out and file an LFO fee reduction/waiver.

Biographies

Oscar Aguirre recently joined the KCBA as the Staff Attorney for the Records Project. As the Staff Attorney, Oscar recruits, trains, and mentors volunteer attorneys to assist clients with vacating criminal convictions. Prior to joining KCBA, Oscar was a public defender in Skagit County and a law clerk for a U.S. district court judge.

RECORDS PROJECT TRAINING

KING COUNTY BAR
THE RECORDS PROJECT

AGENDA

- i. Program Background
- ii. Legal Requirements to Vacate
- iii. Beginning the Vacating Process
- iv. Drafting, Filing, and Submitting Court Documents

I. PROGRAM BACKGROUND

HISTORY

- Vacating convictions has been a service provided by the KCBA since 2017
 - Formerly known as the Volunteer Legal Services program, in 2019 the program shifted to focusing solely on vacatur
 - Two full-time staff members
 - Anywhere between 30-50 clients at any given time
- One of very few programs in the state that actively works on vacating records

COMMON LANGUAGE & UNDERSTANDING

- “Records”
- People with convictions
- ~~Collateral consequences~~

IMPORTANT DISTINCTIONS

- Vacating
 - Only removes record of conviction from Washington State Patrol report (WATCH)
 - Does not remove court record
 - Docket still exists
- Expungement
 - Only affects Washington State Patrol, removes records of non-conviction data (e.g., arrests or deferrals)
 - Does not affect court records
- Sealing
 - Makes court documents inaccessible to the public
 - Standard for sealing adult records is whether the private individuals' benefit of sealing outweighs public interest
 - Recent changes in law has made it much easier to seal juvenile records

WHO ARE OUR CLIENTS?

- Individuals with convictions that are eligible to be vacated
- Our clients are low-income and come from a variety of backgrounds
 - All are below or around the 200% Federal Poverty Line
 - Some are members of systemically oppressed groups

CONVICTION BARRIERS

WASHINGTON STATE PATROL
CRIMINAL RECORDS DIVISION
P.O. BOX 42633
OLYMPIA, WASHINGTON 98504-2633
(360) 534-2000
WWW.WSP.WA.GOV

CRIMINAL HISTORY INFORMATION AS OF [REDACTED]

NOTICE

THE FOLLOWING TRANSCRIPT OF RECORD IS FURNISHED FOR OFFICIAL USE ONLY. SECONDARY DISSEMINATION OF THIS CRIMINAL HISTORY RECORD INFORMATION IS PROHIBITED UNLESS IN COMPLIANCE WITH THE WASHINGTON STATE CRIMINAL RECORDS PRIVACY ACT, CHAPTER 10.97 RCW.

POSITIVE IDENTIFICATION CAN ONLY BE BASED UPON FINGERPRINT COMPARISON. BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY SHOULD BE REQUESTED FOR SUBSEQUENT USE. WHEN EXPLANATION OF A CHARGE OR DISPOSITION IS NEEDED, COMMUNICATE DIRECTLY WITH THE AGENCY THAT SUPPLIED THE INFORMATION TO THE WASHINGTON STATE PATROL.

THE CONVICTION RECORD INCLUDES INFORMATION FOR WHICH A PERSON MAY BE CURRENTLY BEING PROCESSED BY THE CRIMINAL JUSTICE SYSTEM.

MASTER INFORMATION

NAME: [REDACTED] DOB: [REDACTED]
SID NUMBER: [REDACTED] DOC NUMBER:

PERSON INFORMATION

SEX	RACE	HEIGHT	WEIGHT	EYES	HAIR	PLACE OF BIRTH	CITIZENSHIP
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
OTHER NAMES USED		OTHER DATES OF BIRTH USED		SOC SEC NUMBER	MISC NUMBER		

BIRTH USED NUMBER

PHOTOGRAPH

NO PHOTOGRAPH ON FILE

CONVICTION AND/OR ADVERSE FINDING SUMMARY

	DISPOSITION DATE
0 FELONY(S)	
1 GROSS MISDEMEANOR(S) MALICIOUS MISCHIEF-3	██████████
0 MISDEMEANOR(S)	
0 CLASSIFICATION(S) UNKNOWN	

DOC SUMMARY

NO KNOWN DOC INFORMATION

CRIMINAL HISTORY RECORD INFORMATION

THE ARRESTS LISTED MAY HAVE BEEN BASED ON PROBABLE CAUSE AT THE TIME OF ARREST OR ON A WARRANT. PROBABLE CAUSE ARRESTS MAY OR MAY NOT RESULT IN THE FILING OF CHARGES. CONTACT THE ARRESTING AGENCY FOR INFORMATION ON THE FORMAL CHARGES AND/OR DISPOSITIONS.

AN ARREST IS NOT A CONVICTION OR FINDING OF GUILT

ARREST 2

DATE OF ARREST: ██████████

NAME USED: ██████████

CONTRIBUTING AGENCY: ██████████ MAN POLICE DEPARTMENT

LOCAL ID: ██████████

ATN: ██████████

TCN: ██████████

DISPOSITION INFORMATION:

COURT CASE NO: ██████████

CONTRIBUTOR OR DISPOSITION RESPONSIBLE AGENCY: ██████████

EXAMPLE CASE I - JAMIE

- 1978
 - Possession of Stolen Property – Felony
- Employed through DSHS
- Temporary unemployment due to an injury
- Was unable to resume employment due to old conviction

EXAMPLE CASE II - AMANDA

- Single mom
- 3 Children – 10, 5, and 3
- 1994 – Theft in the 3rd Degree
- 2004 – Marihuana possession less/equal 40g
- No valid OP X 20
- Currently she is unable to find employment or housing

EXPECTATIONS

- As a volunteer, you become a representative of the KCBA and the Records Project
- Developing rapport & building compassion/understanding
 - All of our clients are low-income
 - Many of our clients are BIPOC, LGBTQ+, have disabilities, are unhoused, immigrants, non-English speaking, etc.,
- Adapt to client needs and circumstances

EXPECTATIONS CONT.

- Communication with clients
- Limited Representation Agreement
- Communication with staff

MICROSOFT TEAMS GROUP






- Post questions on the Post tab for all staff and other volunteer attorneys to address
 - If you need a more personalized response, please email our staff team directly
- Find all necessary forms and guides under the Files tab
- Celebrate your wins via posting about it on Posts





II.
LEGAL REQUIREMENTS TO VACATE

AUTOMATIC DISQUALIFIERS

Type	Eligible?
Class A Felony	
Class B Felony	
Class C Felony	
Gross Misdemeanor	
Simple Misdemeanor	

- Pending criminal charge
- Cannot be restrained by a protection order (or something similar) or violated one in the past **5 years**

INELIGIBLE CONVICTIONS

- DUI/Physical Control
 - **BUT** prior offenses eligible if (1) no other prior offense and (2) 10 years has passed since date of arrest for prior offense without drug/alcohol violation (9.96.060(d))
- Sex & Obscenity/Pornography Offenses
 - Includes misdemeanor, felony, and attempt convictions (9.68, 9.68A, 9A.44, 9A.44.132)
 - **BUT** does not include failure to register as a sex offender (9A.44.132) or some convictions where the client was a victim (9.94A.030)

INELIGIBLE CONVICTIONS CONT.

- Violent Offenses (9.94A.030(58)(a)) and Crimes Against Persons (43.43.830(7))
 - Includes attempted offenses
 - **BUT**, if no firearm, deadly weapon, or sexual motivation enhancement, does not include:
 - Assault 2nd Degree (9A.36.021)
 - Assault 3rd Degree (not committed against law enforcement) (9A.36.031)
 - Robbery 2nd Degree (9A.56.210)

FELONY WAITING PERIOD

- Class B Felony — **10 years** from the later of
 - (i) client's release from community custody,
 - (ii) client's release from confinement, or
 - (iii) client's sentence date
- For Class C Felony, it's **5 years**
- Cannot have been convicted of a crime in recent past
 - Class B Felony – **10 years**
 - Class C Felony – **5 years**

MISDEMEANOR WAITING PERIOD

- Most Misdemeanors — **3 years** from completion of sentencing obligations
- DV Misdemeanors — **5 years** from completion of sentencing obligations
 - **NOTE:** DV offenses have additional requirements –
 - (i) Notice to prosecutor
 - (ii) No more than one DV conviction
- Cannot have been convicted of crime within last **3 years**

SENTENCING OBLIGATIONS

- Includes all terms of the original conditions of the sentence
- Examples:
 - Legal financial obligations
 - Probation
 - Treatment
 - Community service
 - Anger management

LEGAL FINANCIAL OBLIGATIONS (LFO)

- Includes fines, fees, costs, and restitution
- Must be satisfied to vacate any conviction
- **For misdemeanors:** waiting period starts once satisfied
- **For felonies:** client must obtain Certificate of Discharge before court considers LFOs satisfied

LFO CHANGES

- 2018 LFO Reforms
- HB 1412
- GR 39



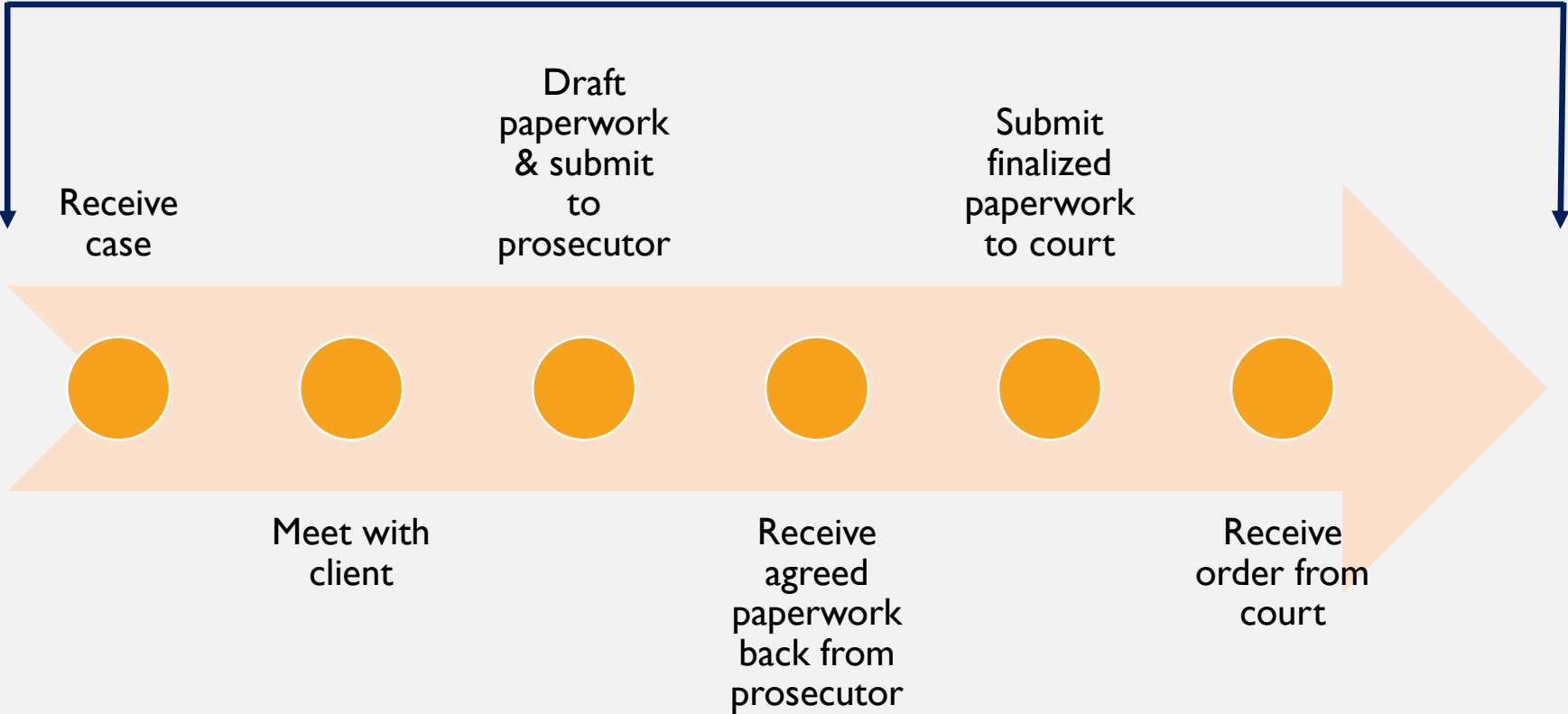
III. GETTING STARTED

REFERRALS & INTAKES

- How can clients reach out to us?
 - Via phone call – 206-267-7085
 - They can also email our legal assistant – joyced@kcba.org
- CLEAR hotline, NLC, and the public defenders/prosecutor's office will often refer clients to our program
- Client Intake
 - Takes anywhere between 15–30 minutes
 - This is where we ensure that our client is income eligible
 - Any other information regarding the criminal charges are also discussed during the intake

TIMELINE

4 – 6 weeks




CASE ASSESSMENTS

- Volunteer attorneys will receive a case assessment at the time they are paired with a client
 - After confirming income eligibility, our legal assistant gathers court records and the client's WATCH report
 - The Staff Attorney then conducts legal analysis to determine which convictions are eligible to be vacated
- Volunteers utilize the case assessment to coordinate with the client and prepare the necessary forms
- Volunteers are free to independently confirm the case assessment
 - In addition to these slides, you may also review [RCW 9.94A.640](#) (for felonies) and [RCW 9.96.060](#) (for misdemeanors)

CASE ASSESSMENT CONT.

- Our case assessments will always include the following information
 - Court name
 - Case number
 - Charges
 - Conviction type
 - Sentencing date
 - Vacating eligibility
- In addition to the case assessment, you will receive all other documents necessary to vacate the conviction(s)

A photograph of the King County Superior Courthouse in Seattle, Washington, taken from an elevated perspective during the "blue hour" of dusk. The building is a large, classical-style structure with multiple stories, many windows of which are illuminated from within, casting a warm glow. The sky is a mix of soft pinks, oranges, and blues. In the foreground, a street with some traffic and streetlights is visible. The overall scene is a blend of urban architecture and natural light.

IV. DRAFTING, FILING, AND SUBMITTING

King County Superior Courthouse (Evan Didler, [Flickr creative commons](#))



October 10, 2022

Steve Smith
1234 Home St., Apt #1
Citysville, WA 98888
stevesmith1980@yahoo.com

RE: Vacating Conviction Records

Dear Mr. Smith,

You have reached out to us seeking assistance to vacate convictions on your record. We found 3 convictions on your WATCH report. Based on our preliminary research, we have made the following findings:

- 2 of the convictions are likely eligible to be vacated
- 1 conviction is ineligible to be vacated

Below is a chart with details on these convictions, including those which may be eligible to be vacated.

Court/ Case No.	Charge(s)	Type of Conviction	Sentencing Date	Sentencing Obligations Completed?	Eligible to be Vacated?
Seattle Municipal Court 111222	Charge 1: Assault Seattle Municipal Code: 12A.06.01	Gross Misdemeanor	05/22/1995	Yes	Likely Eligible

Seattle Municipal Court 333444	Charge 1: Driving Under the Influence Seattle Municipal Code: 11.56.02	Gross Misdemeanor	05/30/1986	Yes	Ineligible – Due to Type of Offense
Seattle Municipal Court 555666	Charge 1: Malicious Mischief in the 3rd Degree RCW: 9A.48.090	Gross Misdemeanor	06/17/1992	No - \$2,923.62 outstanding in unpaid LFOs	Ineligible – Due to Incomplete Sentencing Obligations
King County Superior Court 77-8-99999-0	Charge 1: Unlawful Possession of Firearm Revised Code of Washington: 9.41.040	Class B Felony	05/22/1998	Yes – But Still Need Certificate of Discharge	Likely Eligible

UNDERSTANDING YOUR CASE ASSESSMENT

DUI Conviction – Ineligibility

You have a 1986 gross misdemeanor conviction for driving under the influence. DUI convictions are not eligible for vacating under Washington law. RCW 9.96.080 states that “an applicant may not have the record of conviction for a misdemeanor or gross misdemeanor offense vacated if . . . (d) the offense was a violation of RCW 46.61.502 (driving while under the influence).” Thus, your DUI conviction is ineligible to be vacated.

Certificate of Discharge

You have a 1998 conviction for a Class B Felony. To vacate a felony, you must first obtain a Certificate of Discharge from the court confirming that all sentencing obligations have been completed. RCW 9.94A.640(1). You have not received a Certificate of Discharge for your Felony conviction. However, because you have completed all sentencing obligations, you are eligible to receive one. A volunteer attorney (more on this below) can assist you with completing this.

Ineligible for Vacating – Based on Incomplete Sentencing Obligations

In Washington, to be eligible to vacate your Malicious Mischief 3rd Degree conviction, you must wait at least three years after “complet[ing] the terms of the sentence, including any financial obligations.” RCW 9.96.060(g). Our research found that you have \$2,923.62 outstanding in non-restitution legal financial obligations. Once you have satisfied your LFO, you must wait three years without a new criminal conviction to be eligible for vacation.

MISDEMEANORS

THE PAPERWORK - MISDEMEANORS

- Notice of Limited Appearance (Court Rules 4.2 and 70.1)
- Petition and Declaration to Vacate Misdemeanor Conviction
- Order on Petition to Vacate Misdemeanor Conviction
- Note for Hearing (jurisdiction dependent)
 - If a hearing is required, feel free to reach out to staff beforehand

Motion to Vacate Misdemeanor
Conviction (I)

Municipal Court of Washington
City of Seattle

City of Seattle

Plaintiff

vs.

Steve Smith

Defendant

No. 111222

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: 10/28/2022

[Attorney's Signature]

Defendant's Attorney, WSBA #XYZ

[Attorney's Name]

Print Name

II. Declaration of Defendant

2. I, (name) Steve Smith, state as follows:
On (date) 05/22/1995 I was convicted of the following offense(s):
Count No: 1 Offense: Assault
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:

Motion to Vacate Misdemeanor Conviction (II)

- 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:

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).

Motion to Vacate Misdemeanor Conviction (III)

- 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.

Motion to Vacate Misdemeanor Conviction (IV)

- 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.

Motion to Vacate Misdemeanor Conviction (VI)

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) Seattle, Washington on (date) 10/28/2022.

[Steve Smith's Signature]

Defendant's Signature

Steve Smith

Print Name

Mailing Address, unless confidential:

1234 Home St., Apt. #1, Citysville, Washington 98888

Street Address or PO Box

City

State

Zip

**Proposed Order on Motion to
Vacate Misdemeanor
Conviction (I)**

**Municipal Court of Washington
City of Seattle**

<u>City of Seattle</u>	Plaintiff	No. 111222
vs.		Order on Petition Re: Vacating Conviction <input type="checkbox"/> Granted (in full or in part) (ORVCJG) <input type="checkbox"/> Denied (ORVCJD)
<u>Steve Smith</u>	Defendant	Clerk's action required: <input type="checkbox"/> 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

**Proposed Order on Motion to
Vacate Misdemeanor
Conviction (II)**

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).

**Proposed Order on Motion to
Vacate Misdemeanor
Conviction (III)**

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.

**Proposed Order on Motion to
Vacate Misdemeanor
Conviction (IV)**

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: _____

**Proposed Order on Motion to
Vacate Misdemeanor
Conviction (V)**

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: _____

Submitted by: _____

Judge/Commissioner
Approved:

Proposed Order on Motion to
Vacate Misdemeanor
Conviction (VI)

[Attorney's Signature]

Attorney for Defendant/WSBA #XYZ
[Attorney's Name]

Print Name

Deputy Prosecuting Attorney/WSBA #

Print Name

FELONIES

THE PAPERWORK - FELONIES

- Notice of Limited Appearance (Rules 4.2 and 70.1)
- Motion and Declaration to Vacate Felony Conviction
- Order on Motion to Vacate Felony Conviction
- Certificate of Discharge
- Note for Hearing (jurisdiction dependent)

Motion to Vacate Felony Conviction (I)

Superior Court of Washington, County of King

State of Washington, Plaintiff, vs.

No. 55-6-7777-8

Steve Smith, Defendant. DOB: 01/01/1980 PCN: SID:

Motion and Declaration for Order Vacating Record of Felony Conviction (MTAF)

I. Motion

[X] Defendant [] Prosecutor asks the court for an order vacating the record of the defendant's conviction of a felony offense the defendant committed on or after July 1, 1984. This motion is based on RCW 9.94A.640, the case record and files, and the declaration of the defendant or prosecutor.

Dated: 10/28/2022 [Attorney's Signature] Signature WSBA No. XYZ

[Attorney's Name] Print Name

II. Declaration of Defendant

2.1 I, Steve Smith, declare as follows:

- Count: 1, Offense (include degree): Unlawful Possession of Firearm (1st Degree), RCW 9.41.040. Count: Offense (include degree): RCW. Count: Offense (include degree): RCW. Count: Offense (include degree): RCW.

2.2 I was discharged under RCW 9.94A.637, effective (date) for the offenses listed in paragraph 2.1 (RCW 9.94A.640).

2.3 There are no criminal charges pending against me in any court of this state or another state, or in any federal court (RCW 9.94A.640(2)(a)).

2.4 The offense for which I was convicted is not one of the following offenses (RCW 9.94A.640(2)(b) and (g)):

Motion to Vacate Felony Conviction (II)

A violent offense (including <u>all</u> class A felonies) as defined in RCW 9.94A.030
A crime against persons as defined in RCW 43.43.830, except I can vacate my conviction if it was for one of the following crimes and the conviction did not include a firearm, deadly weapon, or sexual motivation enhancement: <ul style="list-style-type: none">▪ Assault in the second degree (RCW 9A.36.021)▪ Assault in the third degree (RCW 9A.36.031) when not committed against a law enforcement officer or peace officer▪ Robbery in the second degree (RCW 9A.56.210)
A felony described in RCW 46.61.502 or 46.61.504

2.5 No New Convictions

- The offense I committed was a class B felony and I have not been convicted of any new crime in this state, another state, or federal court in the last 10 years. (RCW 9.94A.640(2)(c)).
- Or
- The offense I committed was a class C felony and I have not been convicted of any new crime in this state, another state, or federal court in the last five years. (RCW 9.94A.640(2)(d)).

2.6 Time Since Conviction or Release

- The offense I committed was a class B felony and at least 10 years have passed since the later of my: a) release from community custody, b) release from full and partial confinement; or c) sentencing date (RCW 9.94A.640(2)(e)).
- Or
- The offense I committed was a class C felony, other than a class C felony described in RCW 46.61.504(6), and at least 5 years have passed since the later of my: a) release from community custody, b) release from full and partial confinement; or c) sentencing date (RCW 9.94A.640(2)(f)).
- Or
- I was a victim of domestic violence, sex trafficking, prostitution, commercial sexual abuse of a minor; or sexual assault. The offense I am trying to vacate is not the offense of promoting prostitution as described in RCW 9A.88.070 and 9A.88.080. The offense was committed as a result of my being a victim of one of the above offenses. The specific facts and circumstances are: _____

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Signed on 10/28/2022 (date) at Seattle, Washington.

[Steve Smith's Signature] _____ Steve Smith _____
Defendant Print Name

Address 1234 Home St., Apt. #1, Citysville, Washington 98888 _____

Motion to Vacate Felony

Conviction (III)

Attach the following documents:

Copy of judgment and sentence

Copy of certificate of discharge, or other document showing completion of all conditions of sentence

Copy of current criminal history

Proposed Order on
Motion to Vacate Felony
Conviction (I)

Superior Court of Washington, County of King

State of Washington, Plaintiff,
vs.

Steve Smith,

Defendant.

PCN:

SID:

DOB: 01/01/1980

No. 55-6-77777-8

Order on Motion to Vacate Record of
Felony Conviction

Granted (ORVCJG)

Denied (ORDYMT)

Clerk's Action Required: para. 3.7

I. Basis

This matter comes before the court on defendant's motion for an order vacating record of felony conviction pursuant to RCW 9.94A.640. The court heard argument of the parties and considered the case records and files, and the pleadings submitted on the matter.

II. Findings

- 2.1 Adequate notice was was not given to the appropriate parties and agencies.
- 2.2. On _____ (date) defendant was convicted of the following offense(s):
- Count: _____ Offense (include degree): _____ RCW _____
- Count: _____ Offense (include degree): _____ RCW _____
- Count: _____ Offense (include degree): _____ RCW _____
- Count: _____ Offense (include degree): _____ RCW _____
- Count: _____ Offense (include degree): _____ RCW _____
- 2.3 Defendant was discharged under RCW 9.94A.637, effective _____ (date) for the offenses listed in paragraph 2.2 (RCW 9.94A.640).
- 2.4 Defendant has satisfied the following requirements of RCW 9.94A.640(2) or has met the equivalent of these requirements as they would be applied to a person convicted of a crime committed after July 1, 1984:
- There are no criminal charges pending against the defendant in any court of this state or another state, or in any federal court (RCW 9.94A.640(2)(a)).
- The offense for which the defendant was convicted is not one of the following offenses:

Proposed Order on Motion to Vacate Felony Conviction (II)

A violent offense (including all class A felonies) as defined in RCW 9.94A.030

A crime against persons as defined in RCW 43.43.830, except the defendant's conviction for one of the following crimes can be vacated if the conviction did not include a firearm, deadly weapon, or sexual motivation enhancement:

- Assault in the second degree (RCW 9A.36.021)
- Assault in the third degree (RCW 9A.36.031) when not committed against a law enforcement officer or peace officer
- Robbery in the second degree (RCW 9A.56.210)

A felony described in RCW 46.61.502 or 46.61.504

(RCW 9.94A.640(2)(b), (g))

2.5 The defendant committed a class B felony and has has not been convicted of any new crime in this state, another state, or federal court in the last 10 years, based upon the criminal history check of the records listed below (RCW 9.94A.640(2)(c)):

Or

The defendant committed a class C felony and has has not been convicted of any new crime in this state, another state, or federal court in the last 5 years, based upon the criminal history check of the records listed below (RCW 9.94A.640(2)(d)):

Washington State Crime Information Center (WACIC), RCW 43.43.500 et seq.;

National Crime Information Center (NCIC), including the Interstate Identification Index (Triple I), 28 USC Section 534;

Judicial Information System (JIS), RCW 2.68 et seq. and JISCR.

Other: _____.

2.6 The offense for which the defendant was convicted was a class B felony and it has been at least 10 years since the later of the defendant's: a) release from community custody, b) release from full and partial confinement; or c) sentencing date (RCW 9.94A.640(2)(e)).

Or

The offense for which the defendant was convicted was a class C felony, other than a class C felony described in RCW 46.61.504(6), and it has been at least 5 years since the later of the defendant's: a) release from community custody, b) release from full and partial confinement; or c) sentencing date (RCW 9.94A.640(2)(f)).

Or

The defendant is a victim of domestic violence, sex trafficking, prostitution, or commercial sexual abuse of a minor; or sexual assault. The offense the defendant is trying to vacate is not the offense of promoting prostitution as described in RCW 9A.88.070 and 9A.88.080

III. Order

The court orders:

3.1 The motion for order vacating conviction records of the following offense is granted denied.

Count: ___ Offense (include degree): _____ RCW _____.

Count: ___ Offense (include degree): _____ RCW _____.

Proposed Order on Motion to Vacate Felony Conviction (III)

Count: ___ Offense (include degree): _____ RCW _____
 Count: ___ Offense (include degree): _____ RCW _____
 Count: ___ Offense (include degree): _____ RCW _____

If granted, the court further orders that:

- 3.2 The defendant's guilty plea for every offense listed in paragraph 3.1 is withdrawn and a not guilty plea is entered.
Or
 The guilty verdict for every offense listed in paragraph 3.1 is set aside.
- 3.3 The information or indictment for every offense listed in paragraph 3.1 is dismissed.
- 3.4 The defendant shall be released from all penalties and disabilities resulting from every offense listed in paragraph 3.1 and the conviction for those offense/s shall not be included in the defendant's criminal history for purposes of determining a sentence in any subsequent conviction. However, the conviction may be used in a later criminal prosecution. A conviction vacated on or after July 28, 2019, qualifies as a prior conviction for the purpose of charging a present recidivist offense occurring on or after that date, and may be used to establish an ongoing pattern of abuse for purposes of RCW 9.94A.535.
- 3.5 This order does not affect the separate legal requirements for restoring a right to possess a firearm under RCW 9.41.040.
- 3.6 For all purposes, including responding to questions on employment applications, the defendant may state that he or she has never been convicted of any offense listed in paragraph 3.1.
- 3.7 The clerk of the court shall immediately transmit a 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 record of conviction of the offense(s) listed in paragraph 3.1. The Washington State Patrol shall transmit a copy of this order to the Federal Bureau of Investigation. The Washington State Patrol or local law enforcement agency may not disseminate or disclose a conviction that has been vacated under RCW 9.94A.640 to any person, except to other criminal justice enforcement agencies.

Dated: _____ Judge/Print Name: _____

 Prosecuting Attorney WSBA No. _____ [Attorney's Signature]
 Defendant's Attorney WSBA No. XYZ

 Print Name _____ [Attorney's Name]
 Print Name _____

Motion for Certificate of Discharge (I)

**Superior Court of Washington
County of King**

State of Washington, Plaintiff,

vs.

Steve Smith,
Defendant.

SID:
If no SID, use DOB: 01/01/1980

Criminal Case No.: 55-6-7777-8

Motion for Certificate and Order of Discharge (MTCORD)

Motion for Certificate and Order of Discharge and Petition for Issuance of a Separate No-Contact Order (MCORDPN)

Clerk's Action Required:

Filing fee received for civil case number

Note to defendant: A Certificate and Order of Discharge does not remove a criminal Conviction from your record. It does not remove any restrictions on the ownership, possession or control of firearms/ammunition under state/federal law. A Certificate and Order of Discharge does not terminate your obligation to comply with a no-contact order that excludes or prohibits you from having contact with a specified person or coming within a set distance of any specified location, or your obligation to register as a sex or kidnapping offender.

I, Steve Smith (name of defendant) ask the court for a Certificate and Order of Discharge and petition for Issuance of a Separate No-Contact Order under RCW 9.94A.637.

As provided in the Confirmation of Court-Ordered Requirements on page 3:

- On 08/31/2004 (date), I completed all of the sentencing conditions imposed on me by the court in the Judgment and Sentence in this case, including the payment of any and all legal financial obligations. RCW 9.94A.637(3).
- I have verified that I completed all nonfinancial sentencing conditions imposed by the court in the Judgment and Sentence in this case. RCW 9.94A.637(4).
or
 I cannot verify I completed all nonfinancial sentencing conditions imposed by the court in the Judgment and Sentence in this case, and the court should waive the verification requirement because:

Motion for Certificate of Discharge (II)

(RCW 9.94A.637(4))

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at Seattle, (City) Washington (State) on 10/28/2022 (Date).

[Steve Smith's Signature]
Signature of Defendant

[Steve Smith]
Print or Type Name

Motion for Certificate of Discharge (III)

Confirmation of Court-ordered Requirements:

I have checked the Department of Corrections records and the records show that the defendant [] has [] has not satisfactorily completed all court-ordered sentencing conditions. [] Community custody was completed on _____ (date) or if not ordered, full and partial confinement was completed on _____ (date).

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at (city) _____, (state) _____ on (date) _____.

Signature of Community Corrections Officer _____ Print Name _____

OR

I am submitting the following materials to show that I have completed the conditions in the Judgment and Sentence, such as community service hours and substance evaluation/treatment (include dates):

Order Terminating Supervision, Satisfaction of Judgment – Legal Financial Obligation. (attach copies to this document.)

[X] I completed community custody on 03/14/2003 (date) [] or if not ordered, I completed full and partial confinement on _____ (date).

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at (city) Seattle, (state) Washington on (date) 10/28/2022.

[Attorney's Signature] _____ [Attorney's Name] _____ Attorney for Defendant/WSBA No. XYZ Print Name

And

Confirmation of Legal Financial Obligations:

I have checked the Clerk's financial records and the records show that the defendant: [] has not paid any and all legal financial obligations. [] has paid any and all legal financial obligations. [] Any and all legal financial obligations were satisfied on _____ (date).

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at (city) _____, (state) _____ on (date) _____.

Signature of (Deputy) Clerk- Finance section _____ Print Name _____

Proposed Order on
Motion for Certificate of
Discharge (I)

Superior Court of Washington
County of King

State of Washington, Plaintiff,

vs.
Steve Smith,
Defendant.

SID:
If no SID, use DOB: **01/01/1980**

Criminal Case No.: **55-6-7777-8**

Certificate and Order of Discharge
(1 - CRORD, 2 - CRORDP)

Certificate and Order of Discharge
and Order for Issuance of Separate
No-Contact Order (1 - CRORDN, 2 -
CRORDPN)

Clerks action required.

The defendant filed a *Motion for Certificate and Order of Discharge [] and Petition for Issuance of Separate No-Contact Order* under RCW 9.94A.637. The court considered the motion, petition, if any, and any supporting material submitted, and reviewed the relevant court records.

1. The court received notification from the county clerk that the defendant has paid any and all legal financial obligations and finds that the defendant has provided adequate verification of completion of all sentencing conditions, and there appears to be no reason why the court should not discharge the defendant.

The court orders that this document be considered a satisfaction of judgment entered under this cause number and that the defendant be discharged from the confinement and supervision of the Secretary of the Department of Corrections.

The discharge is effective as of _____ (the date the defendant completed all sentencing conditions, including all legal financial obligations).

Or

- The court finds good cause to waive the requirement that defendant provide verification of completion of all nonfinancial sentencing conditions; and:
- the defendant completed community custody on _____ (date), and it has been more than five years since that date.
 - if none ordered, the defendant completed full and partial confinement on _____ (date), and it has been more than five years since that date.
 - all legal financial obligations were satisfied on _____ (date).

**Proposed Order on
Motion for Certificate of
Discharge (II)**

The court orders that this document be considered a satisfaction of judgment entered under this cause number and that the defendant be **discharged** from the confinement and supervision of the Secretary of the Department of Corrections.

The discharge is effective as of _____ (the latest date listed above).

2. The court finds that the defendant has provided adequate verification of completion of all nonfinancial sentencing conditions.
or
 The court finds good cause to waive the requirement that defendant provide verification of completion of all nonfinancial sentencing conditions.

The court orders that this document will be considered a satisfaction of judgment entered under this cause number and that the defendant will be **discharged** from the confinement and supervision of the Secretary of the Department of Corrections:

effective on the later of:

- five years after the defendant completes community custody. was completed on _____ (date)
- if none ordered, five years after the defendant completes full and partial confinement. was completed on _____ (date)
- the date all legal financial obligations are satisfied. satisfied on _____ (date)

The court orders that, when effective, this discharge restores the defendant's civil rights not already restored by RCW 29A.08.520. This certificate of discharge:

- is not based on a finding of rehabilitation and does not restore the right to ship, transport, possess or receive firearms or ammunition.
- does not terminate any obligation to register as a sex or kidnapping offender.
- does not terminate any obligation to comply with a no-contact order that excludes or prohibits the defendant from having contact with a specified person or coming within a set distance of any specified location. Any no-contact order filed separately from the judgment and sentence remains in effect.

The defendant remains subject to a **no-contact order** that was imposed as a part of the judgment and sentence in this case and was not filed separately. This certificate of discharge is valid and effective only upon entry of a separate civil no-contact order with terms and conditions identical to those imposed in the judgment and sentence in this case. The defendant must pay the filing fee for the separate no-contact order. The court orders the defendant to comply with the separate no-contact order reissued under a new cause number on this date or dated _____.

Dated: _____

Judge/Print Name

Presented by:

Approved for entry without further notice:

[Attorney's Signature]

Attorney for Defendant/WSBA No. XYZ

Deputy Prosecuting Attorney/WSBA No.

LFO

Seattle Municipal Court 333444	Charge 1: Driving Under the Influence Seattle Municipal Code: 11.56.02	Gross Misdemeanor	05/30/1986	Yes	Ineligible – Due to Type of Offense
Seattle Municipal Court 555666	Charge 1: Malicious Mischief in the 3rd Degree RCW: 9A.48.090	Gross Misdemeanor	06/17/1992	No - \$2,923.62 outstanding in unpaid LFOs	Ineligible – Due to Incomplete Sentencing Obligations
King County Superior Court 77-8-99999-0	Charge 1: Unlawful Possession of Firearm Revised Code of Washington: 9.41.040	Class B Felony	05/22/1998	Yes – But Still Need Certificate of Discharge	Likely Eligible

UNDERSTANDING YOUR CASE ASSESSMENT

DUI Conviction – Ineligibility

You have a 1986 gross misdemeanor conviction for driving under the influence. DUI convictions are not eligible for vacating under Washington law. RCW 9.96.080 states that “an applicant may not have the record of conviction for a misdemeanor or gross misdemeanor offense vacated if . . . (d) the offense was a violation of RCW 46.61.502 (driving while under the influence).” Thus, your DUI conviction is ineligible to be vacated.

Certificate of Discharge

You have a 1998 conviction for a Class B Felony. To vacate a felony, you must first obtain a Certificate of Discharge from the court confirming that all sentencing obligations have been completed. RCW 9.94A.640(1). You have not received a Certificate of Discharge for your Felony conviction. However, because you have completed all sentencing obligations, you are eligible to receive one. A volunteer attorney ([more on this below](#)) can assist you with completing this.

Ineligible for Vacating – Based on Incomplete Sentencing Obligations

In Washington, to be eligible to vacate your Malicious Mischief 3rd Degree conviction, you must wait at least three years after “complet[ing] the terms of the sentence, including any financial obligations.” RCW 9.96.060(g). Our research found that you have \$2,923.62 outstanding in non-restitution legal financial obligations. Once you have satisfied your LFO, you must wait three years without a new criminal conviction to be eligible for vacation.

THE PAPERWORK – LFOS

- Notice of limited appearance
- Petition Re Legal Financial Obligations
- Order Re Legal Financial Obligations

Petition to Remit or Waive LFOs (I)

Municipal Court of Washington, City of Seattle

City of Seattle
Plaintiff,
vs.

No. 555666

Petition re: Legal Financial Obligations
(PT)

Steve Smith
Defendant. DOB 01/01/1980
PCN/TCN:
SID:

Petition re: Legal Financial Obligations

Use this form to request that your legal financial obligations (LFOs) be waived, reduced, pulled from collections, converted to community restitution hours, or to modify a payment plan.

The undersigned requests that the sentencing court grant an order that will (check the boxes that apply):

1. **Interest** (Check all that apply)

LFO Interest. Waive all unpaid interest on my LFOs that are not restitution. (RCW 10.82.090(2)(a).)

Restitution Interest. I have paid the principal of my restitution in full. All that remains of my restitution obligation is interest. I ask that the court waive or reduce the remaining interest on my restitution as an incentive for me to pay my remaining LFOs. (RCW 10.82.090(2)(b).)

2. **LFOs that are not restitution** (Check all that apply)

Remission or Reduction. Waive or reduce all unpaid discretionary LFOs. (RCW 9.94A.6333(3)(f); RCW 10.01.160(4) (limited to costs); RCW 10.01.180(5); RCW 46.63.190.)

Additional Time. Grant me additional time to pay my unpaid LFOs. (RCW 9.94A.6333(3)(f); RCW 10.01.170(1); RCW 10.01.180(5); RCW 46.63.190.)

Collection. Remove my unpaid LFOs from collection and waive all collection fees. (RCW 19.16.500(1)(b); RCW 36.18.190.)

Petition to Remit or Waive LFOs (II)

Community Restitution. Convert any unpaid discretionary LFOs that are not restitution to community restitution/service hours through a community restitution program. (RCW 9.94A.6333(3)(f); RCW 10.01.160(4) (limited to costs); RCW 10.01.180(5); RCW 46.63.190.)

3. Declaration

I am the defendant in the above action and declare that I have been released from total confinement on this matter: *(Check all that apply)*

I have paid my restitution in full.

I am indigent because:

I am receiving one of the following types of public assistance: temporary assistance for needy families, aged, blind, or disabled assistance benefits, medical care services under RCW 74.09.035, pregnant women assistance benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, Medicaid (for example, Apple Health), or supplemental security income. (RCW 10.101.010(3)(a); GR 34(a)(3)(A).) I am receiving the following forms of public assistance:

Legal services by an attorney associated with a qualified legal services provider.

I am involuntarily committed to a public mental health facility. (RCW 10.101.010(3)(b).)

I am receiving an annual income, after taxes, of 125% or less of the current federally established poverty level. (RCW 10.101.010(3)(c); GR 34(a)(3)(B).)

I am receiving an annual income, after taxes, of more than 125% of the federally established poverty level but I have recurring basic living expenses making me unable to pay the LFOs imposed. (GR 34(a)(3)(C).) Details:

Other compelling circumstances exist that demonstrate my inability to pay fees and/or charges. (GR 34(a)(3)(D).) Details:

I am homeless. (RCW 9.94A.6333(3)(d); RCW 9.94A.760(11); RCW 10.01.180(1)(c).)

I am not able to complete community restitution hours because:

Petition to Remit or Waive LFOs (III)

I have not paid my LFOs in a timely manner. However, my late payment(s) or failure to pay was/were not willful because:

I've had financial difficulties satisfying my legal financial obligations.

OPTIONAL: I have attached my financial case history report from the court clerk.

I request:

the court rule without a hearing.

a hearing by telephone video conference in court appearance.

4. I mailed or delivered this Petition, Declaration and proposed Order to the Court on (date) 10/28/2022 and to the Prosecuting Attorney on (date) 10/28/2022.

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at (city) Seattle, (state) Washington on (date) 10/28/2022.

[Steve Smith's signature]

Signature of Defendant

Steve Smith

Print Name

Dated: 10/12/2022

[Attorney's Signature]

Defendant's Attorney/WSBA No. XYZ

[Attorney's Name]

Print Name

Proposed Order on
Petition to Remit or
Waive LFOs (I)

Municipal Court of Washington, City of **Seattle**

City of Seattle Plaintiff,	No. 555666
vs.	Order re: Legal Financial Obligations (ORWILFO)
Steve Smith Defendant. DOB 01/01/1980	Clerk Action Required
PCN/TCN:	
SID:	

Order re: Legal Financial Obligations

This Court has considered the defendant's Motion for Order Waiving Interest and Granting Remission or Reduction of Legal Financial Obligations (LFOs) pursuant to GR 39, the defendant's declaration, and any testimony, and has reviewed the relevant court records.

The Court finds:

- The defendant has been released from total confinement in this matter.
- The defendant has paid restitution in full and reducing interest on restitution would be an incentive for the defendant to pay other LFOs. RCW 10.82.090(2)(b).
- The defendant is indigent. RCW 10.101.010(3); RCW 9.94A.6333(3)(c); RCW 10.01.180(5); GR 34(a)(3); *State v. Blazina*, 182 Wn.2d 827, 839, 344 P.2d 827 (2015) (instructing courts to look to GR 34 for guidance concerning ability to pay).
- The defendant is homeless. RCW 9.94A.6333(3)(d); RCW 9.94A.760(11); RCW 10.01.180(1)(c).
- The defendant's failure to timely pay LFOs was not willful. RCW 9.94A.6333(3)(c); RCW 10.01.180(5).
- The defendant has has not requested the opportunity for community restitution.
- Other: _____

Proposed Order on
Petition to Remit or
Waive LFOs (II)

The Court orders:

- [] **LFO Interest.** All interest that is not restitution on the defendant's LFOs is waived. RCW 10.82.090(2)(a).
- [] **Restitution Interest Waiver.** Because the defendant has paid restitution in full and reducing interest on restitution would be an incentive for the defendant to pay other LFOs, all restitution interest is waived. RCW 10.82.090(2)(b).
- [] **Restitution Interest Reduction.** Because the defendant has paid restitution in full and reducing interest on restitution would be an incentive for the defendant to pay other LFOs, restitution interest is reduced to _____. RCW 10.82.090(2)(b).
- [] **Remission.** All discretionary LFOs that are not restitution, including all costs or fees attendant to private debt collection efforts, are waived. RCW 9.94A.6333(3)(f); RCW 10.01.160(3), (4) (relating to costs); RCW 10.01.180(5); RCW 46.63.190; RCW 36.18.190. The following mandatory LFOs shall remain:

-
-
- [] **Reduction.** RCW 9.94A.6333(3)(f); RCW 10.01.180(5). All discretionary LFOs that are not restitution are reduced as follows:

-
-
- [] **Community Restitution.** All discretionary LFOs that are not restitution are converted to community restitution hours through a community restitution program at the rate of \$_____ per hour for each hour of community restitution. RCW 9.94A.6333(3)(f); RCW 10.01.180(5); RCW 46.63.190.

- [] **Additional Time.** RCW 9.94A.6333(3)(f); RCW 10.01.180(5); RCW 10.82.090(2)(b); RCW 10.01.170; RCW 46.63.190. All remaining LFOs may be paid according to the following schedule:

Next payment due date: _____

Minimum monthly payment: _____

Payments shall be made to: _____

-
-
- [] **Collection.** The remaining LFOs are removed from a third-party collection agency and payments shall now be made to the Clerk's Office. RCW 36.18.190.

- [] A review hearing is set for (date) _____

- [] **Other** _____

Dated: _____
Judge

Proposed Order on
Petition to Remit or
Waive LFOs (III)

Presented by:

[Attorney's Signature]

Signature of Attorney WSBA No. XYZ

[Attorney's Name]

Print Name

FILING & SERVING

- Process varies by court
 - KCSC – email filings to prosecutor, wait for a response, and then e-file
 - SMC – submit filings to prosecutor and e-file at same time
- No formal service necessary because it is not a new case

AFTER THE ORDERS

- For LFOs: give the client the good news!
- For vacating convictions:
 1. Send Washington State Patrol (watch.help@wsp.wa.gov) the court's order vacating conviction and all relevant documents
 2. Two weeks after reaching out to WSP, verify that the records have been updated
 3. Give the client the good news!

CONCLUSION