

**DISTRICT COURT OF WASHINGTON
FOR THE COUNTY OF WHITMAN**

STATE OF WASHINGTON, Plaintiff
vs.

_____ Defendant.

No. _____

**Motion and Declaration
for Order Vacating Conviction
(MTAF)**

I. Motion

DEFENDANT asks the court for an order vacating his or her conviction of misdemeanor or gross misdemeanor offenses. This motion is based on RCW 9.96.060, the case record and files, and the declaration of defendant.

Dated: _____

Defendant/ Defendant's Attorney/ WSBA #

Print Name

II. Declaration of Defendant

I, _____, state as follows:

2.1. On _____ (date) I was convicted of the following offense(s):

Count No: ____ Offense: _____ (Check any applicable boxes below)

Excluded Offense Prior Offense Domestic Violence Prostitution with Trafficking

Count No: ____ Offense: _____ (Check any applicable boxes below)

Excluded Offense Prior Offense Domestic Violence Prostitution with Trafficking

Count No: ____ Offense: _____ (Check any applicable boxes below)

Excluded Offense Prior Offense Domestic Violence Prostitution with Trafficking

2.2 There are no criminal charges pending against me in any court of this state or another state, or in any federal court (RCW 9.96.060(2)(a));

2.3 **Excluded Offenses:** The offense for which I was convicted is a misdemeanor offense and **not** one of the following offenses (RCW 9.96.060(2)(b)-(d)):

A violation of chapter 9A.44 RCW (sex offenses)
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

- 2.4 **Prior Offense:** The offense for which I was convicted is considered a "prior offense" under RCW 46.61.5055 (see below), and
- the prior offense is not otherwise excluded from being vacated (see excluded offenses above); and
 - I have not been convicted of any new crime in this state, another state, or federal court since I was convicted in this matter. RCW 9.96.060(2)(g); and
 - at least three years have passed since I completed the terms and conditions of the sentence, including restitution/legal financial obligations. RCW 9.96.060(2)(f); and
 - I have not had another alcohol or drug violation within ten years of the date of arrest for the prior offense; and
 - more than ten years have passed since the date of the arrest for the prior offense.

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

- **Original Convictions for the following** (including equivalent local ordinances):
 - Driving Under the Influence (DUI) RCW 46.61.502
 - Physical Control of a Vehicle Under the Influence (Physical Control) RCW 46.61.504
 - Commercial Vehicle DUI/Physical Control, RCW 46.25.110
 - Watercraft DUI, RCW 79A.60.040(2)
 - Aircraft DUI, RCW 47.68.220, committed under the influence of intoxicating liquor or any drug;
 - Nonhighway vehicle DUI, RCW 46.09.470(2)
 - Snowmobile DUI, RCW 46.10.490(2);
 - Equivalent out-of-state statute for any of the above offenses.
- **Amended Convictions for the following:** *If originally charged with DUI or Physical Control 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
 - Reckless Endangerment RCW 9A.36.050
 - Equivalent out-of-state or local ordinance for the above offenses.*If originally charged with Watercraft DUI (RCW 79A.60.040(2)); but convicted of*
 - Operating a Watercraft in a reckless manner, RCW 79A.60.040(1), or
 - an equivalent local ordinance.*If originally charged with Aircraft DUI (RCW 47.68.220); but convicted of*
 - Operating an Aircraft in a careless or reckless manner, RCW 47.68.220, or
 - an equivalent local ordinance.
- **Deferred Sentences for the following:** *If originally charged with DUI or Physical Control 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
 - Equivalent out-of-state or local ordinance for the above offenses.

- 2.5 **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)(e)):
- I provided the prosecuting attorney's office that prosecuted the offense with written notice of this petition. RCW 9.96.060(2)(e)(i).
 - I filed the original notice with this court. RCW 9.96.060(2)(e)(i).
 - I have not been convicted of any other domestic violence offense arising out of any other incident prior to the offense which I am seeking to vacate. RCW 9.96.060(2)(e)(ii).
 - It has been at least five 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)(e)(iv).
 - I have not been convicted of any new crime in this state, another state, or federal court since I was convicted in this matter. RCW 9.96.060(2)(g).
- 2.6 **Prostitution Conviction as a Victim:** The conviction was for a prostitution offense and I committed the offense as a result of being a victim of trafficking, promoting prostitution in the first degree, or promoting commercial sexual abuse of a minor. (If this box is checked, you must fill out and submit the Prostitution Conviction Attachment form to support your motion.)
- 2.7 **Offenses not otherwise specified above:**
- The offense for which I was convicted is not an Excluded Offense, a Prior Offense, a Conviction for Prostitution as a Victim of Trafficking, and did not involve Domestic Violence.
 - At least three years have passed since I completed the terms and conditions of the sentence, including restitution/legal financial obligations. RCW 9.96.060(2)(f).
 - I have not been convicted of any new crime in this state, another state, or federal court since I was convicted in this matter. RCW 9.96.060(2)(g).
- 2.8 I have never had the record of another conviction vacated. RCW 9.96.060(2)(h).
- 2.9 I am not currently and have not been restrained within the last five years 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. RCW 9.96.060(2)(i).

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

Signed on _____, at _____, Washington.

Defendant

Address