

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

_____ 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):

Cause No: _____ Count No: _____ Offense: _____

Cause No: _____ Count No: _____ Offense: _____

Cause No: _____ Count No: _____ Offense: _____

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

A prostitution offense that I committed as a result of being a victim of trafficking under RCW 9A.40.100, promoting prostitution in the first degree, RCW 9A.88.070, promoting commercial sexual abuse of a minor, RCW 9.68A.101, or trafficking in persons under the trafficking victims protection act of 2000, 22 U.S.C. §7101 et seq. If it is, skip to paragraph 2.8.

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
An offense considered a “prior offense” under RCW 46.61.5055 and I have had a subsequent alcohol or drug violation within 10 years of the date of arrest for the prior offense.
A “prior offense” means: <ul style="list-style-type: none"> • Vehicular Homicide while under the influence of intoxicating liquor or any drug. (RCW 46.61.520) • Vehicular Assault while under the influence of intoxicating liquor or any drug. (RCW 46.61.522). • Vehicular Homicide or Vehicular Assault committed in a reckless manner or with disregard for the safety of others if the original charge was for Vehicular Homicide or Vehicular Assault while under the influence of intoxicating liquor or any drug. • Negligent Driving in the 1st degree (RCW 46.61.5249), Reckless Driving (RCW 46.61.500), Reckless Endangerment (RCW 9A.36.050) or equivalent out of state or local ordinance, if the original charge was DUI, Actual physical control while under the influence, vehicular homicide, or vehicular assault. • Deferred prosecution for DUI/Physical control or equivalent local ordinance. • Deferred prosecution for Negligent Driving in the 1st degree if the original charge was DUI, Actual physical control, vehicular homicide, vehicular assault; • (effective August 1, 2012) An equivalent out-of-state Deferred prosecution for DUI/Physical control, including chemical dependency treatment program.
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

- 2.4 The offense for which I was convicted does **not** involve domestic violence and it has been at least three years since I completed the terms and conditions of the sentence, including restitution/legal financial obligations. RCW 9.96.060(2)(f).
Or
 The offense for which I was convicted **does** involve 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. 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).
- 2.5 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 I have never had the record of another conviction vacated. RCW 9.96.060(2)(h).

2.7 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 antiharassment protection order, or a civil restraining order which restrains one party from contacting the other party. RCW 9.96.060(2)(i).

2.8 The conviction was for a prostitution offense that was committed while the defendant was a victim of trafficking under state or federal law, of promoting prostitution in the first degree, or of promoting commercial sexual abuse of a minor:

- The offense listed in paragraph 2.1 is a prostitution offense that I committed as a result of being a victim of trafficking under RCW 9A.40.100, promoting prostitution in the first degree, RCW 9A.88.070, promoting commercial sexual abuse of a minor, RCW 9.68A.101, or trafficking in persons under the trafficking victims protection act of 2000, 22 U.S.C. §7101 et seq; and
- There are no criminal charges pending against me for any crime other than prostitution in any court of this state, or another state, or in any federal court. or
- I have not been convicted of another crime, except prostitution, in this state, another state, or federal court since the date of conviction.
- See the attached Statement about Prostitution Convictions.

2.9 I affirm that this vacation of criminal conviction is not being sought for any illegal purpose and is, instead, being requested for the following reason:

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

Print Name

Address
