

## Superior Court of California County of Madera

### INSTRUCTIONS ON NOTICE OF PETITION AND PETITION FOR RELIEF UNDER PENAL CODE §1210(e)(1)

#### Dismissal of Charges upon Successful Completion of Drug Treatment under Proposition 36

If you were placed on probation under Penal Code 1210.1(a) (Proposition 36) and have completed drug treatment, you may be entitled to have the charges dismissed. To obtain dismissal of charges, you must prove the following to the satisfaction of a judge at a hearing:

- You have successfully completed drug treatment,
- You have substantially complied with the conditions of probation, and
- There is reasonable cause to believe that you will **not** abuse controlled substances in the future. (See Penal Code 1210(e)(1))

To obtain the requested relief, you must do the following:

**Get the forms.** You will need “*Notice of Petition and Petition for Relief Pursuant to Penal Code §1210(e)(1)*” (Local Form MAD-CRM-008), “*Proof of Service – Notice of Petition and Petition for Relief Under Penal Code §1210(e)(1)*” (Local Form MAD-CRM-024) and “*Order Dismissing Accusation Against Probationer Pursuant to Penal Code §1210(e)(1)*” (Local Form MAD-CRM-011). Forms are available from the clerk or online at <http://www.madera.courts.ca.gov/MaderaPackets.htm>.

1. **Complete the forms.** Complete the “Notice of Petition and Petition for Relief (MAD-CRM-008), and “Proof of Service” (MAD-CRM-024) in their entirety. Complete the top portion only of the “Order Dismissing Accusation” (MAD-CRM-011) form. Type the forms or print legibly in black ink.
2. **Make copies of the forms.** You must make three copies of the originals. One copy is for you; another copy for the Probation Department; and one copy for the District Attorney. The original is for the court.
3. **File the forms.** File the forms in the Criminal Division, located on the 2<sup>nd</sup> Floor of the Madera Superior Court – 200 South G Street, Madera, CA.
4. **Deliver a copy of the Petition.** Have someone (NOT you) serve/deliver to the Probation Department and to the District Attorney a copy of your filed *Notice of Petition and Petition for Relief Pursuant to Penal Code §1210(e)(1)*” (MAD-CRM-008).
5. **File your Proof of Service.** Have your server fill out your *Proof of Service – Notice of Petition and Petition for Relief Under Penal Code §1210(e)(1)* (Local Form MAD-CRM-024). You will need one copy of your Proof of Service. Take both the original and copy to file with the clerk, the clerk will return the copy to you for your records.
6. **Mark your calendar.** As a general rule, hearings will be set at least 28 calendar days after the date of filing of the Petition to allow time for the requisite records check by the Probation Department. The hearing date and time will be set by the Criminal processing clerks.
7. **Attend the hearing.** The court will review your petition and determine whether it is appropriate to dismiss the charges.
8. **Be advised.** The relief granted by this law does not seal, destroy, or remove any entries from your record, but is a termination of your probation and a dismissal of the charges and convictions against you. You are released from all penalties and disabilities resulting from the conviction of the above-named offense, EXCEPT:
  - This relief does not permit you to own, possess, or have in your custody or control any firearm capable of being concealed upon your person and will not prevent a conviction under Penal Code 12021.
  - This relief does not relieve you of the obligation to disclose the arrest and conviction in response to any direct question contained in any questionnaire or application for public office, for a position as a peace officer as defined in Section 830, for licensure by any state or local agency, for contracting with the California State Lottery, or for purposes of serving on a jury.

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i>  TELEPHONE NO: E-MAIL ADDRESS <i>(optional)</i> : ATTORNEY FOR <i>(Name)</i> :	FOR COURT USE ONLY
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF MADERA</b> 200 South G Street Madera, CA 93637 Criminal Division	
PEOPLE OF THE STATE OF CALIFORNIA  VS.  DEFENDANT:	
<b>NOTICE OF PETITION AND PETITION FOR RELIEF                  PURSUANT TO PENAL CODE §1210(e)(1)</b>	CASE NUMBER:  DA NUMBER:  COURT HEARING Date: Time: Dept:

TO: DISTRICT ATTORNEY, COUNTY OF MADERA  
 CHIEF PROBATION OFFICER, COUNTY OF MADERA

PLEASE TAKE NOTICE that on the date, time and in the department indicated above, or as soon thereafter as petitioner may be heard, the petitioner will present the following petition:

**PETITION**

Pursuant to Penal code 1210(e)(1) petitioner requests that the court set aside the conviction herein, and order the charge(s) dismissed.

**STATEMENT OF FACTS**

Petitioner was convicted on \_\_\_\_\_ of the following charges:

Probation was granted by the Court for a period of \_\_\_\_\_ years.

Petitioner is entitled to the relief requested by reason of the following:

- (1) Petitioner successfully completed drug treatment.
- (2) Petitioner has substantially complied with the conditions of probation.
- (3) There is reasonable cause to believe that Petitioner will not abuse controlled substances in the future.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: \_\_\_\_\_

\_\_\_\_\_  
 Petitioner/Attorney for Petitioner

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):  TELEPHONE NO: _____ FAX NO.: _____ E-MAIL ADDRESS (optional): _____ ATTORNEY FOR (Name): _____	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF MADERA</b> 200 South G Street Madera, CA 93637 Criminal Division	
PEOPLE OF THE STATE OF CALIFORNIA  VS.  DEFENDANT: _____	
<b>ORDER DISMISSING ACCUSATION AGAINST PROBATIONER          PURSUANT TO PENAL CODE §1210(e)(1)</b>	CASE NUMBER: _____
	DA NUMBER: _____

The above-named defendant having been convicted of the crime of \_\_\_\_\_ and granted probation for the term of \_\_\_\_\_ years; and it now appearing to the Court from information presented at a hearing on \_\_\_\_\_, that good cause exists to set aside the conviction entered herein and dismiss the charges. It further appearing that the defendant has successfully completed drug treatment, has substantially complied with the conditions of probation, and that there is reasonable cause to believe that the defendant will not abuse controlled substances in the future, therefore:

**IT IS ORDERED** that the conviction on which the probation was passed is hereby set aside, and the accusatory pleading is dismissed.

**IT IS ORDERED** that the defendant is released for all penalties and disabilities resulting from the conviction of the above-named offence, EXCEPT:

- (1) This order does not permit the defendant to own, possess, or have in his or her custody or control any firearm capable of being concealed upon his or her person or prevent his conviction under Section 12021 of the Penal Code.
- (2) This order does not relieve the defendant of the obligation to disclose the arrest and conviction in response to any direct question contained in any questionnaire or application for public office, for a position as a peace officer as defined in Section 830, for licensure by any state or local agency, for contracting with the California State Lottery, or for purposes of serving on a jury.

Date: \_\_\_\_\_

\_\_\_\_\_  
 JUDGE OF SUPERIOR COURT

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i>  TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF MADERA</b> 200 South G Street Madera, CA 93637 Criminal Division	
PEOPLE OF THE STATE OF CALIFORNIA  VS.  DEFENDANT: _____	
<b>PROOF OF SERVICE</b> <input type="checkbox"/> PERSONAL SERVICE <input type="checkbox"/> SERVICE BY MAIL	CASE NUMBER: _____

**This is a proof of service of a Notice of Petition and Petition for Relief under Penal Code 1210(e)(1)**

**DIRECTIONS:** A copy of the Petition must be served upon the District Attorney and the Probation Department. After the Petition has been served, the original and a copy of this form (Proof of Service) must be filed with the court.

1. Person serving. I am over the age of 18 and not a party to this action.  
  
 Name: \_\_\_\_\_  
 Address \_\_\_\_\_  
  
 Telephone: \_\_\_\_\_
2. I served a copy of the Notice of Petition and Petition for Relief under Penal Code 1210(e)(1) as follows:  
 (check either *a* or *b* below):

- a.  **Personal Service:**  
 to the person or agency at the address listed below:  
  
 (1) Name of person or agency served:  
 (2) Address where served:  
  
 (3) Date served:  
 (4) Time served:

- b.  **Service by mail:**  
 in the United States mail, in a sealed envelope with postage fully prepaid. The envelope was addressed as follows:  
 (1) Name of person served:  
 (2) Address:  
  
 (3) Date of mailing:  
 (4) Place of mailing (city and state):

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

Date: \_\_\_\_\_

\_\_\_\_\_  
*(Type or print name)*

\_\_\_\_\_  
*(Signature)*