

APPLICATION TO SET ASIDE

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APPLICATION TO SET ASIDE A JUDGMENT OF GUILT

(Forms & Instructions)

Law Library Resource Center

Application to set aside conviction

Checklist

You may use the forms and instructions to ask the Court to set aside a conviction if . . .

- ✓ Your case was handled in the Superior Court of Arizona in Maricopa County; and
- ✓ You have read the set aside conviction statutes (A.R.S. § 13-905 and those that follow), and you are eligible under the statutes; or
- ✓ You are asking the Court to reconsider a denial of a previous application.

Do not use the forms in this packet if:

- ✗ Your conviction was from a justice, city, or magistrate court. Contact that court for further information.
- ✗ You are looking for “expungement.” Arizona does not expunge criminal records. An order setting aside the judgment of conviction pursuant to A.R.S. § 13-907 does not remove the conviction from the public record. Arizona law deems this a matter of public protection.

Read me: Consulting a lawyer before filing documents with the court may help prevent unexpected results. A list of lawyers you may hire to advise you on handling your own case or to perform specific tasks can be found on the Law Library Resource Center website.

Application to set aside a conviction

This packet contains court forms and instructions to file for Application to Set Aside. Items in bold are forms that you will need to file with the Court. Non-bold items are instructions or procedures. Do not copy or file those pages!

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The documents you have received are copyrighted by the Superior Court of Arizona in Maricopa County. You have permission to use them for any lawful purpose. These forms shall not be used to engage in the unauthorized practice of law. The Court assumes no responsibility and accepts no liability for actions taken by users of these documents, including reliance on their contents. The documents are under continual revision and are current only for the day they were received. It is strongly recommended that you verify on a regular basis that you have the most current documents.

Instructions: How to complete the forms and steps to set aside a conviction of guilt

Things to consider before filing this application:

1. If your conviction was from a justice, city or magistrate court, please contact that court for an application and information about your case.
2. If you have multiple cases, you must make a separate application for each case number. The Court must decide each one separately.
3. If the Court grants an application to set aside a conviction or to reinstate civil rights, the case is not sealed, and the case remains a public record. Information is not removed from the Clerk of Superior Court's or other public information webpages. An order setting aside a judgment of conviction pursuant to A.R.S. § 13-905 does not remove the conviction, and the conviction remains a public record. Arizona law deems this a matter of public protection.

Step 1: In black ink, please complete the forms in this packet with instructions below.

Form: Application to Set Aside Conviction

- **Heading:** Fill out the information requested at the top of the form.

If a prior application to set aside a conviction or application for Certificate of Second Chance was denied, check the box to tell the Court that this is a Request for Reconsideration.

- **Conviction(s):** Provide the requested information about your prior conviction(s).

Information about your conviction(s) may be found online at the Superior Court's website: <http://www.superiorcourt.maricopa.gov/docket/CriminalCourtCases/caseSearch.asp>.

You may also come to a Law Library Resource Center or Clerk of Superior Court location to look up your case. For locations and more information, see: www.superiorcourt.maricopa.gov or <http://www.clerkofcourt.maricopa.gov/copies.asp>.

- **Sentence Compliance:** Provide the information requested on sentence compliance.

You can get a financial statement and payment history from the Clerk of Superior Court's Criminal Financial Obligations Section. You may request a payment history in person from the Criminal File Counter, South Court Tower, 175 West Madison Street, 12th Floor, Phoenix, AZ 85003 or the File Counter, Southeast Regional Court Facility, 222 East Javelina Avenue, Mesa, AZ 85210. You will need to fill out a request and pay a fee, and the payment history will be sent to you. Contact Criminal Financial Obligations for details and more options at (602) 372-5375.

- **Prior Set Aside(s):** Provide the requested information about your previous set aside applications.
 1. If you have previously received a certificate of second chance on the set aside of a felony conviction, you cannot receive a certificate of second chance if the Court grants your Application to Set Aside Conviction.
- **Pending Cases and Active Warrants:** Provide the requested information about any pending cases and active warrants.
- **Certificate of Second Chance:** Provide the requested information on Certificate of Second Chance.
 1. If the court grants your Application to Set Aside Conviction, it must also issue a Certificate of Second Chance if you have not previously received a Certificate of Second Chance and any of the following conditions apply:
 - You were convicted of a misdemeanor;
 - You were convicted of a Class 4, 5, or 6 Felony and at least 2 years have passed since you fulfilled the conditions of probation or sentence; or
 - You were convicted of a Class 2 or 3 Felony and at least 5 years have passed since you fulfilled the conditions of probation or sentence.
 2. A Certificate of Second Chance grants the opportunity to obtain an occupational license, provides protections to employers for hiring or contracting with ex-offenders, and provides protections to a person or entity providing housing to an ex-offender.
 3. The Certificate of Second Chance cannot be used as a recommendation, sponsorship, or promotion when applying for an occupational license, employment, or housing.
- **Other Information for the Court:** Provide any additional information you would like the court to consider.

Step 2: Put documents together.

You will need the following forms:

- Original Application to Set Aside Conviction
 - Copy of Certificate of Absolute Discharge from Imprisonment from Arizona Department of Corrections (if applicable)
 - Copy of Discharge from Probation (if applicable)
- OPTIONAL – Any other documentation to show extraordinary circumstances, such as rehabilitation or other change of circumstance.

Step 3: Deliver or mail.

- The completed application can be filed in person, mailed, eFiled, or deposited in the external depository boxes as described below. The Clerk of Superior Court is open Monday through Friday from 8:00 a.m. to 5:00 p.m.

- File in Person at:

Criminal File Counter
 South Court Tower
 175 W. Madison Street, 12th Floor
 Phoenix, AZ 85003

File Counter
 Southeast Regional Court Facility
 222 E Javelina Avenue
 Mesa, AZ 85210

- Mail to:

Maricopa County Clerk of Superior Court
 Criminal File Counter
 175 W. Madison Street, 12th Floor
 Phoenix, AZ 85003
 ATTN: Restoration of Civil Rights Clerk

- eFile via: <https://efiling.clerkofcourt.maricopa.gov/>.

- Leave in external deposit box at:

County Administration Building
 4th Avenue entrance
 301 West Jefferson Street
 Phoenix, AZ 85003

Southeast Facility Court Facility
 North entrance
 222 East Javelina Avenue
 Mesa, AZ 85210

Northeast Regional Center
 Main entrance
 18380 North 40th Street
 Phoenix, AZ 85032

Northwest Regional Center
 Main entrance
 14264 West Tierra Buena Lane
 Surprise, AZ 85374

Step 4: Wait for the Court to notify you.

- Upon filing the application, notice of the application will be given to the appropriate prosecutors as required by law.
- If you requested a hearing and a hearing is set, the Court will notify you. The application may be ruled upon without a hearing.
- If the State or the victim objects to your application, an objection to the application must be filed within 30 days after the application is filed with the court. The court may set a hearing.
- You will be mailed a signed copy of the Order granting or denying all or part of your request(s) at the address listed on the application form. Please be sure your current mailing address is updated with the Court. If your address changes, contact the Clerk of Superior Court at (602) 372-5375.
- If you have questions before you file the application, you can contact the Clerk of Superior Court at (602)372-5375. If you have not received an Order after 120 days from the date you submitted your application, you can contact Criminal Administration at (602) 506-8575.

If you have any questions regarding your rights, please refer to the Arizona Rules of Criminal Procedure and Title 13 of the Arizona Revised Statutes located at:

<http://government.westlaw.com/linkedslice/default.asp?SP=AZR-1000>

<http://www.azleg.state.az.us/FormatDocument.asp?inDoc=/ars/13/00905.htm&Title=13&DocType=ARS>

Person Filing: _____

Address (if not protected): _____

City, State, Zip Code: _____

Telephone: _____

Email Address: _____

Lawyer's Bar Number: _____



Representing Self, without a Lawyer OR Attorney for State OR Defendant

SUPERIOR COURT OF ARIZONA
IN MARICOPA COUNTY

STATE OF ARIZONA, Plaintiff

Case Number: _____

vs

APPLICATION to SET ASIDE
CONVICTION - A.R.S. § 13-905

DEFENDANT (First, MI, Last)

Note: Includes application to restore firearm
rights pursuant to A.R.S. § 13-905(O)

Date of Birth: _____

If applicable, check the appropriate box(es) below:

Applicant is:

- Defendant
- Attorney for Defendant
- Probation Officer

- Request for Reconsideration for previously
denied Set Aside
- Request for Reconsideration for previously
denied Certificate of Second Chance
- Request for Certificate of Second Chance
(when previous Set Aside has been
granted)

SECTION I. CONVICTION(S)

A Judgment of Guilt was entered in the Superior Court of Arizona in Maricopa County against me, the
defendant, on the _____ day of _____, 20_____, on the conviction of:

1. Count I: _____
2. Count II: _____
3. Count III: _____
4. Count IV: _____

Additional counts continue on a separate page.

SECTION II. SENTENCE COMPLIANCE

1. This is my first felony conviction in this or any other State, OR

I have also been convicted of a felony in the following Court(s):

Court Name: _____ in case number _____

Court Name: _____ in case number _____

Additional cases and convictions continue on a separate page.

2. I was sentenced to: a term of probation the Department of Corrections

3. I completed the conditions of probation. The Probation Department's order discharging me from probation is attached to this application, if available.

4. I have complied with all the required terms of the sentence (including all probation, employment, classes, community service, victim restitution or other court ordered monetary obligations, drug/alcohol testing, or other requirements.)

5. I have not complied with all terms of my sentence. Explain: _____

6. I received a Certificate of Absolute Discharge from Imprisonment from the Arizona Department of Corrections AND have attached a copy of that Certificate to this application, if available.

7. Have you paid victim restitution in full? Yes No

If not, a set aside of judgment of conviction will be denied without a showing of extraordinary circumstances. If you believe you have extraordinary circumstances, explain below. (Attach documentation you think is relevant for the court's consideration.)

8. Have you paid all other court-ordered monetary obligations in this case (criminal fines and fees) in full? Yes No

If no, please explain: _____

In some circumstances, you may be eligible to apply to the court to modify the amount owed or convert monies owed to community restitution.

SECTION III. PRIOR SET ASIDE(S)

Have you previously applied to set aside any conviction? Yes No

If so, what was the date of your last application? _____

1. Have you previously been granted a set aside? Yes No

If so, was the set aside on a felony conviction? Yes No

2. If you have previously been granted a set aside on a felony conviction, did you receive a certificate of second chance? Yes No

3. Have you previously been denied a set aside? Yes No

SECTION IV. PENDING CASES AND ACTIVE WARRANTS

1. Are there any open criminal cases against you? Yes No

2. Do you have an active warrant? Yes No

If yes to either question above, please explain: _____

SECTION V. CERTIFICATE OF SECOND CHANCE

1. Are you requesting a Certificate of Second Chance? Yes No

2. Have you ever received a Certificate of Second Chance before? Yes No

If Yes, in what case(s)?

Case Number: _____

Court Name: _____ in case number _____

Court Name: _____ in case number _____

3. Have you ever requested a Certificate of Second Chance, but were denied?

Yes No

If Yes, what has changed that would allow you to receive a Certificate of Second Chance?

SECTION VI. OTHER INFORMATION FOR THE COURT

1. Is there anything you would like the court to take into consideration? _____

2. Attach any other information you would like the court to consider. List attached documents:

3. The Court may decide on this application without a hearing unless a hearing is requested by you, the prosecutor's office, or the victim. (Check the box below if you are requesting a hearing.)

Hearing requested? Yes No

I understand that this application may be denied if information in this application is found to be inaccurate.

I understand that even if I am granted the right to possess and carry a firearm pursuant to this application, I may still be prohibited from possessing and carrying a firearm under other state or federal law.

Case Number: _____

I declare under penalty of perjury that, to the best of my knowledge, the information provided in this application and any attachments is true and correct.

Applicant's Name Printed

Applicant's Signature

Applicant's Address

AUTHORIZATION TO PROCEED ON BEHALF OF DEFENDANT

I authorize _____ Attorney, or Probation Officer to petition the Superior Court of Arizona in Maricopa County, to take the above-indicated action.

Date

Defendant's Signature

To the best of my knowledge, the information provided in this application is true and correct.

Print Attorney/Probation Officer Name

Attorney/Probation Officer Signature

Attorney/Probation Officer Address