Cost: $5.00

PROP 64 PETITION (ADULT) (HS11361.8) PACKET

Created: 11/29/2016

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF TRINITY

ATTORNEY OR PARTY WITHOUT ATTORNEY *(Name, State Bar number, and address)*: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (Name):	**FOR COURT USE ONLY**
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT: CDCR NUMBER: JAIL ID NUMBER: DATE OF BIRTH:	
PETITION/APPLICATION (Health and Safety Code, § 11361.8) **ADULT CRIME(S)** ☐ **FOR RESENTENCING OR DISMISSAL** (H&S § 11361.8(b) ☐ **REDESIGNATION OR DISMISSAL/SEALING** (H&S § 11361.8(f))	
INSTRUCTIONS • Before filing this form, petitioner/applicant should consult local court rules and court staff to determine if a formal hearing on the petition/application will be scheduled. • If petitioner is currently serving a sentence for a qualified crime, please fill out sections 1 and 2. • If the applicant has completed the sentence for a qualified crime, please fill out sections 1 and 3. • Complete sections 4 and 5 as necessary. • Upon the filing of the petition/application, the petitioner/applicant is required to immediately serve the office of the prosecuting agency (the district attorney or city attorney, as appropriate) with a copy of the petition/application. It may be served personally or by mail; the signed Proof of Service, attached to this form, must be filed with the court.	CASE NUMBER: DATE: TIME: DEPARTMENT:

1. CONVICTION INFORMATION

CONVICTION A:

On *(date)* _____, Petitioner/Applicant, the defendant in the above-entitled criminal action, was convicted of the following Health and Safety Code section ☐ 11357 ☐ 11358 ☐ 11359 ☐ 11360, which has been reclassified under Proposition 64.

Petitioner/Applicant further states that when committing the conduct resulting in the conviction he/she was:
☐ 18 to 20 years of age; ☐ 21 years old or older. Date of birth: _____

Petitioner/Applicant further states that the nature of the substance which resulted in the conviction was:
☐ Marijuana not in the form of concentrated cannabis; ☐ Concentrated cannabis; ☐ Marijuana plants;
☐ Other: _____.

Petitioner/Applicant further states that the quantity of the substance which resulted in the conviction was:
☐ Not more than 28.5 grams of marijuana not in the form of concentrated cannabis; ☐ Not more than 4 grams of marijuana in the form of concentrated cannabis; ☐ Not more than 8 grams of marijuana in the form of concentrated cannabis;
☐ Not more than 6 marijuana plants.

CONVICTION B:

On *(date)* _____, Petitioner/Applicant, the defendant in the above-entitled criminal action, was convicted of the following Health and Safety Code section ☐ 11357 ☐ 11358 ☐ 11359 ☐ 11360, which has been reclassified under Proposition 64.

Petitioner/Applicant further states that when committing the conduct resulting in the conviction he/she was:
☐ 18 to 20 years of age; ☐ 21 years old or older. Date of birth: _____

Petitioner/Applicant further states that the nature of the substance which resulted in the conviction was:
☐ Marijuana not in the form of concentrated cannabis; ☐ Concentrated cannabis; ☐ Marijuana plants;
☐ Other: _____.

Petitioner/Applicant further states that the quantity of the substance which resulted in the conviction was:
☐ Not more than 28.5 grams of marijuana not in the form of concentrated cannabis; ☐ Not more than 4 grams of marijuana in the form of concentrated cannabis; ☐ Not more than 8 grams of marijuana in the form of concentrated cannabis;
☐ Not more than 6 marijuana plants.

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF TRINITY

PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	CASE NUMBER:

2. REQUEST FOR RELIEF

a. ☐ **RESENTENCING/DISMISSAL**
Petitioner is currently serving the sentence for the crime noted above, and requests the sentence be recalled and that he/she be resentenced or the charge be dismissed as required by law.
☐ Other: _____.

b. ☐ **REDESIGNATION/DISMISSAL/SEALING**
Applicant has completed the sentence for the crime noted above, and requests the sentence be recalled and the conviction be redesignated or dismissed. If the conviction is dismissed, applicant requests the court's record of conviction be sealed.
☐ Other: _____.

3. WAIVER OF HEARING BY ORIGINAL SENTENCING JUDGE
☐ Petitioner/applicant waives the right to have this matter heard by the original sentencing judge. The Presiding Judge of the court may designate any judge to rule on this matter.

4. WAIVER OF APPEARANCE
☐ Petitioner/applicant understands there is a right to personally attend any hearing held in this matter. Petitioner/applicant gives up that right; the matter may be heard without his/her appearance.

I declare under penalty of perjury and to the best of my information and belief that the foregoing is true and correct.

Executed on: _____ ▶ _____
(DATE) (SIGNATURE OF PETITIONER OR ATTORNEY)

_____ _____ _____ _____
(ADDRESS, PETITIONER) (CITY) (STATE) (ZIP CODE)

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF TRINITY

PROOF OF SERVICE

☐ Personal Service ☐ Served by Mail

1. Person serving: I am over the age of 18 and not a party to this action.

   (1) Name: _____
   (2) Address: _____
   (3) Telephone: _____

2. I served a copy of the Petition/Application for Resentencing or Reduction to Infraction as follows (*check one*):

   ☐ a. Personal Service: I personally delivered the Petition/Application for Resentencing or Reduction to Infraction to the person at the address listed below:

   (1) Name of the person served: _____
   (2) Address where served: _____
   (3) Date served: _____
   (4) Time served: _____ ☐ AM ☐ PM

   ☐ b. Service by Mail: I deposited the Petition/Application for Resentencing or Reduction to Infraction in the United States mail, in a sealed envelope with first class 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 to the best of my information and belief that the foregoing is true and correct.

Executed on: _____ ▶ _____
(DATE) (SIGNATURE OF DECLARANT)

_____
(PRINTED NAME OF DECLARANT)

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF TRINITY

ATTORNEY OR PARTY WITHOUT ATTORNEY *(Name, State Bar number, and address)*: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (Name):	**FOR COURT USE ONLY**
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT: CDCR NUMBER: JAIL ID NUMBER: DATE OF BIRTH:	
RESPONSE ☐ **FOR RESENTENCING OR DISMISSAL** (H&S § 11361.8(b)) ☐ **REDESIGNATION OR DISMISSAL/SEALING** (H&S § 11361.8(f))	
INSTRUCTIONS • Petitioner must complete Petition and indicate whether a request is made for Resentencing or Redesignation. • Upon filing, petitioner is required to immediately provide notice by providing a copy of the Petition to the District Attorney. • The District Attorney is required to complete the Response, file with the court, and provide notice by providing a copy to the Petitioner. • If the petitioner is currently in County Jail or State Prison related to this case, District Attorney indicates the petitioner is ineligible, or if either the petitioner or District Attorney requests a hearing as provided below, the court will set a hearing and provide notice of the date, time, and location to the petitioner and District Attorney.	CASE NUMBER:

DISTRICT ATTORNEY'S RESPONSE TO PETITION FOR ☐ RESENTENCING ☐ REDESIGNATION

Having received notice of a petition dated _____, the District Attorney responds as follows:

☐ The District Attorney has no objection to this petition/application. Petitioner/applicant is entitled to the requested relief without a hearing.

☐ The District Attorney requests a hearing and objects to the granting of the petition/application because:

☐ Petitioner/applicant was not convicted of an eligible offense.

☐ Other: _____.

☐ Petitioner is eligible for relief, but relief should be denied because petitioner presents an unreasonable risk of danger to public safety if he/she is resentenced.

☐ The District Attorney does not object to the petitioner's/applicant's eligibility for relief, but requests a hearing on the issue of resentencing.

Date: _____

_____
(Signature of Deputy District Attorney)

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF TRINITY

Superior Court of California, County of Trinity 11 Court Street PO Box 1258 Weaverville, CA 96093	
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT:	
ORDER AFTER PETITION/APPLICATION (Health and Safety Code, § 11361.8) **ADULT CRIME(S)** ☐ **FOR RESENTENCING OR DISMISSAL (H&S §11361.8(b))** ☐ **REDESIGNATION OR DISMISSAL/SEALING (H&S §11361.8(f))**	CASE NUMBER:

From the petition/application filed in this matter, the records of the court, and any other evidence presented in this matter, the court finds as follows:

1. **RESENTENCING GRANTED**

☐ The petitioner is eligible for the requested relief. The petition is **GRANTED**. The court hereby recalls the sentence imposed on the designated crime(s) and enters the following additional orders:

☐ The following crime(s) is/are resentenced as ☐ misdemeanor(s) ☐ infraction(s):
(indicate crime(s)) _____.

☐ The following sentence is imposed for the commission of the crime(s):
_____.

☐ The petitioner is given credit for time served of (days): _____.

☐ Petitioner is required to complete a period of supervision of _____ months/days on:
☐ Parole ☐ Post release community supervision ☐ Mandatory supervision (P.C. §1170(h))
☐ Formal probation ☐ Informal probation

☐ The court releases the petitioner from any form of post-conviction supervision.

☐ The court **DISMISSES** the following crime(s) for the reason that the conviction is legally invalid:
(specify)_____.

☐ Other: _____.

2. **REDESIGNATION GRANTED**

☐ The applicant is eligible for the requested relief. The application is **GRANTED**. The court hereby recalls the sentence imposed on the designated crime(s) and enters the following additional orders:

☐ The following crime(s) is/are resentenced as ☐ misdemeanor(s) ☐ infraction(s):
(indicate crime(s)) _____.

☐ The court **DISMISSES** the following crime(s) for the reason that the conviction is legally invalid:
(specify)_____.

☐ Other: _____.

PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	CASE NUMBER:

3. **RESENTENCING/REDESIGNATION DENIED**

☐ The petitioner/applicant is ineligible for the requested relief. The request for resentencing/redesignation/dismissal/sealing is **DENIED** as to the crime(s): _____ for the following reasons:

☐ The petitioner/applicant was convicted of an offense that is not eligible for the requested relief.

☐ The petitioner's/applicant's age at the time the crime(s) was/were committed makes petitioner/applicant ineligible for the requested relief.

☐ The nature of the marijuana substance constituting the basis of the crime(s) makes petitioner/applicant ineligible for the requested relief.

☐ The quantity of the marijuana substance constituting the basis of the crime(s) makes petitioner/applicant ineligible for the requested relief.

☐ Although petitioner is eligible for relief, for reasons set forth on the record, the court finds that resentencing of petitioner would pose an unreasonable risk of danger to public safety.

☐ Other: _____.

4. **MISDEMEANOR/INFRACTION FOR ALL PURPOSES**
Any misdemeanor resentenced as an infraction as a result of this order shall thereafter be an infraction for all purposes. Any felony conviction resentenced as a result of this order as a misdemeanor or infraction shall be a misdemeanor or infraction for all purposes.

5. **REGISTRATION**
☐ The petition/applicant is relieved from the requirement to register as a narcotics offender under Health and Safety Code §11590.

6. **SEALING OF CONVICTION**
☐ The court's record of conviction is ordered sealed. No access to the information shall be permitted without a court order.

IT IS SO ORDERED.

Dated: _____

_____
Judge of the Superior Court