

# SETTING ASIDE A MISDEMEANOR

## YOU CAN USE THIS PACKET IF ALL THIS IS TRUE:

- You were sentenced for a misdemeanor in Superior Court, Justice Court, or Municipal Court in Coconino County.
- You were discharged from probation or prison.
- You want to set aside your misdemeanor.

Before signing a court document or getting involved with a court case, it's important to see an attorney to make sure you understand your legal rights and responsibilities. The Law Library has information on finding an attorney.

## INSTRUCTIONS

### **STEP 1: MAKE SURE YOU MEET THIS PACKET'S REQUIREMENTS**

**The court will not set aside your judgment if you were convicted of a crime that:**

- Involved the discharge, use, or threatening exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury on another person.
- Required you to register as a sex offender.
- Found a sexual motivation pursuant to A.R.S. 13-118.
- Involved a victim under 15 years old.
- Involved a driving violation under A.R.S. 28-3473; any local ordinance on stopping, standing, or operating a vehicle; or a traffic or vehicle violation under A.R.S. Title 28, Chapter 3, except a violation of A.R.S. 28-693 or any local ordinance on the same topic.

In most cases, setting aside a judgment is at the court's discretion.

### **STEP 2: FILL OUT THESE FORMS**

- Application To Set Aside A Misdemeanor
- Order Setting Aside a Misdemeanor

### **STEP 3: FILE THE FORMS WITH THE COURT**

Take or mail the original and one copy to the Clerk's Office at the court you listed on the Application. You can find court addresses online at <http://coconino.az.gov/index.aspx?NID=569>.

The Clerk will stamp your copy with the filing date and return it to you for your records. If you file by mail, include a self-addressed, stamped envelope and a note asking the Clerk to return the date-stamped copy to you.

### **STEP 4: THE COURT WILL SEND YOU AN ORDER**

The judge might do one of the following:

- Grant your request
- Deny your request
- Schedule a hearing to ask you questions
- Make other orders the judge thinks proper

### **STEP 5: IF THE JUDGE SCHEDULES A HEARING: GO TO THE HEARING**

Person Filing: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Representing Self

Name of the Court That Sentenced You: \_\_\_\_\_  
*for example: Coconino County Superior Court, Flagstaff Justice Court, Fredonia Justice Court, Flagstaff Municipal Court, Williams Municipal Court, etc.*

In re the Application to Set Aside of: \_\_\_\_\_ Case Number: \_\_\_\_\_

**APPLICATION TO SET ASIDE A MISDEMEANOR**

\_\_\_\_\_  
Defendant's Name

I ask the court to set aside my judgment. This court sentenced me, and I have been discharged from  
 probation  prison. No crime for which I was convicted is a crime listed in A.R.S. 13-905(K).

I ask the court to include a Certificate of Second Chance in the order setting aside my judgment.  
 Yes  No: I have received a Certificate of Second Chance before.

I have read this Application, and it is true and complete to the best of my knowledge.

Signature: \_\_\_\_\_

State of Arizona )  
) )  
County of \_\_\_\_\_ )

Subscribed and sworn before me this date: \_\_\_\_\_ by: \_\_\_\_\_

Seal: Notary Public: \_\_\_\_\_  
Notary Expiration Date: \_\_\_\_\_

Defendant's Name: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Representing Self \_\_\_\_\_

Name of Court That Sentenced You: \_\_\_\_\_

In re the Application to Set Aside of:

Case Number: \_\_\_\_\_

**ORDER SETTING ASIDE A  
MISDEMEANOR**

\_\_\_\_\_  
Defendant's Name

Defendant has been discharged from  probation  prison. Defendant has met the statutory requirements for the following order.

Set Aside:

Defendant's judgment of guilt is set aside, the accusations or information is dismissed, and Defendant is released from all penalties and disabilities resulting from the conviction other than those imposed by the Department of Transportation pursuant to A.R.S. 28-3304, 28-3306, 28-3307, 28-3308, or 28-3319, except that the conviction may be used as a conviction if it would be admissible had it not been set aside and may be pleaded and proved in any subsequent prosecution of Defendant by the state or any of its subdivisions for any offense or used by the Department of Transportation in enforcing the provisions of A.R.S. 28-3304, 28-3306, 28-3307, 28-3308, or 28-3319 as if the judgment of guilt had not been set aside.

Certificate of Second Chance:

The court orders this Certificate of Second Chance. The Defendant has not received a Certificate of Second Chance before.

- Unless specifically excluded by A.R.S. 13-905, this Certificate releases Defendant from all barriers and disabilities in obtaining an occupational license issued under Title 32 that resulted from the conviction, if the person is otherwise qualified.
- This Certificate provides an employer with all protections under A.R.S. 12-558.03.

- This Certificate provides a person or entity providing housing to the Defendant with all the protections limiting the introduction of evidence that A.R.S. 12-558.03(B) provides to an employer.
- This Certificate is not a recommendation or sponsorship for or a promotion of Defendant when applying for an occupational license, employment, or housing.

*Do not sign. This is for the judge to sign.*

Date: \_\_\_\_\_  
Superior Court Judge/Justice of the Peace/  
Magistrate