

1 Innocence Legal Team
1600 S. Main St., Suite 195
2 Walnut Creek, CA 94596
3 Tel: 925 948-9000

4 Attorney for Defendant

5 THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

6 IN AND FOR THE COUNTY OF

7 IN THE MATTER OF THE APPLICATION)
8 OF:)
9) CERTIFICATE OF
10) REHABILITATION
11)
12)
13)
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15)
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25)

14 The Petition of _____, heretofore filed, praying
15 for a Certificate of Rehabilitation pursuant to the provisions
16 of Chapter 3.5, Title 6 or Part 3 of the Penal Code of the State
17 of California, came on regularly for hearing on this ____ day of
18 _____, 2000, and proof having been made to the
19 satisfaction of the Court that notice of the time of hearing has
20 been regularly given as required by the law; and from
21 satisfactory proof taken at said hearing the Court finds that
22 all allegations of said petition are true, and that the required
23 period of rehabilitation has elapsed since petitioner's date of
24 discharge from custody due to his completion of the term to
25 which he was sentenced, or upon his release on parole or

1 probation on _____, that, where appropriate, petitioner has
2 obtained relief pursuant to Penal Code Section 1203.4, and that
3 petitioner has demonstrated by his course of conduct his
4 rehabilitation and fitness to exercise all the civil and
5 political rights of citizenship (except as provided in Penal
6 Code Section 4852.15); and that petitioner has been once
7 convicted of a misdemeanor;

8 WHEREFORE, it is Ordered, Adjudged and Decreed, And this
9 Court does hereby order, adjudge and decree that petitioner has
10 been rehabilitated and is fit to exercise all the civil and
11 political rights of citizenship (except as provided in Penal
12 Code Section 4852.15), relieved of the requirement to register
13 pursuant to Penal Code section 290, and by virtue thereof this
14 court recommends that the Governor of the State of California
15 grant a full pardon to said petitioner.
16

17 Done in open court this ____ day of _____, 2000.

18
19 _____
20 JUDGE OF THE SUPERIOR COURT
21
22
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24
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2 by Patrick E. Clancy

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9 Attorneys for Petitioner

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11
12
13 THE _____ COURT OF THE STATE OF CALIFORNIA

14
15 IN AND FOR THE COUNTY OF _____

16
17 IN THE MATTER OF THE APPLICATION) Case No.
18 OF:)
19) POINTS AND AUTHORITIES
20) IN SUPPORT OF PETITION
21) FOR CERTIFICATE OF
22 FOR A CERTIFICATE OF REHABILITATION) REHABILITATION
23 AND PARDON)
24)
25) Date:

1) Time:

2) Dept:

3 **THIS IS A ROUGH FORM, DELETE SECTIONS THAT DON'T APPLY AND GIVE**
4 **EXPLANATIONS FOR YOUR CASE.**

5
6 **SUMMARY OF FACTS**

7 **LIST PROCEDURAL DETAILS HERE AND EVIDENCE OF REHABILITATION WITH**
8 **EXHIBITS**

9 **A PERSON IN VIOLATION OF PENAL CODE § _____**
10 **IS ELIGIBLE FOR A CERTIFICATE OF REHABILITATION**

11
12
13 **Penal Code § 4852.01(c)** Any person convicted of a felony or
14 any person who is convicted of a misdemeanor violation of
15 any sex offense specified in Section 290, the accusatory
16 pleading of which has been dismissed pursuant to Section
17 1203.4, may file a petition for certificate of
18 rehabilitation and pardon pursuant to the provisions of
19 this chapter if the petitioner has not been incarcerated in
20 any prison, jail, detention facility, or other penal
21 institution or agency since the dismissal of the accusatory
22 pleading and is not on probation for the commission of any
23 other felony, and the petitioner presents satisfactory
24 evidence of five years residence in this state prior to the
25 filing of the petition.

1 Penal Code § 4852.01(d) This chapter shall not apply to
2 persons serving a mandatory life parole, persons committed
3 under death sentences, persons convicted of a violation of
4 subdivision (c) of Section 286, Section 288, subdivision
5 (c) of Section 288a, Section 288.5, or subdivision (j) of
6 Section 289, or persons in the military service.

7
8
9 **A CERTIFICATE OF REHABILITATION GRANTED FROM A CONVICTION**
10 **OF PENAL CODE § _____ , RELIEVES THE DEFENDANT FROM THE DUTY**
11 **TO REGISTER UNDER PENAL CODE § 290**

12 **Penal Code § 290.5(a)** A person required to register under
13 Section 290 may initiate a proceeding under Chapter 3.5
14 (commencing with Section 4852.01) of Title 6 of Part 3,
15 and, except persons described in paragraph (1) of
16 subdivision (a) of Section 290.4 or paragraph (2) of
17 subdivision (g) of Section 290, upon obtaining a
18 certificate of rehabilitation, shall be relieved of any
19 further duty to register under Section 290 if not in
20 custody, on parole, or on probation. This certificate
21 shall not relieve persons described in paragraph (1) of
22 subdivision (a) of Section 290.4 or paragraph (2) of
23 subdivision (g) of Section 290 of the duty to register
24 under Section 290 and shall not relieve a petitioner of the
25 duty to register under Section 290 for any offense subject

1 to that section of which he or she is convicted in the
2 future.

3
4 (b)(1) Except as provided in paragraphs (2) and (3), a
5 person described in paragraph (1) of subdivision (a) of
6 Section 290.4 or paragraph (2) of subdivision (g) of
7 Section 290 shall not be relieved of the duty to register
8 until that person has obtained a full pardon as provided in
9 Chapter 1 (commencing with Section 4800) or Chapter 3
10 (commencing with Section 4850) of Title 6 of Part 3.

11
12 (2) This subdivision does not apply to misdemeanor
13 violations of Section 647.6.

14
15 (3) The court, upon granting a petition for a certificate
16 of rehabilitation pursuant to Chapter 3.5 (commencing with
17 Section 4852.01) of Title 6 of Part 3, may relieve a person
18 of the duty to register under Section 290 for a violation
19 of Section 288 or 288.5, provided that the person was
20 granted probation pursuant to subdivision (c) of Section
21 1203.066, has complied with the provisions of Section 290
22 for a continuous period of at least 10 years immediately
23 preceding the filing of the petition, and has not been
24 convicted of a felony during that period.

1 **DEFENDANT HAS COMPLIED WITH THE APPLICABLE WAITING PERIOD**

2 In the present case the Defendant was released from custody
3 on _____. The applicable waiting period for obtaining a
4 Certificate of Rehabilitation is _____.

5
6 **Penal Code § 4852.03 (a)** The period of rehabilitation shall
7 begin to run upon the discharge of the petitioner from
8 custody due to his or her completion of the term to which
9 he or she was sentenced or upon his or her release on
10 parole or probation, whichever is sooner. For purposes of
11 this chapter, the period of rehabilitation shall constitute
12 five years' residence in this state, plus a period of time
13 determined by the following rules:

14
15 (1) To the five years there shall be added four years in
16 the case of any person convicted of violating Section 187,
17 209, 219, 4500 or 12310 of this code, or subdivision (a) of
18 Section 1672 of the Military and Veterans Code, or of
19 committing any other offense which carries a life sentence.

20
21 (2) To the five years there shall be added two years in the
22 case of any person convicted of committing any offense
23 which is not listed in paragraph (1) and which does not
24 carry a life sentence.

1 (3) The trial court hearing the application for the
2 certificate of rehabilitation may, if the defendant was
3 ordered to serve consecutive sentences, order that his or
4 her statutory period of rehabilitation be extended for an
5 additional period of time which when combined with the time
6 already served will not exceed the period prescribed by
7 statute for the sum of the maximum penalties for all the
8 crimes.

9
10 **STANDARD OF CONDUCT**

11 **Penal Code § 4852.05.** The person shall live an honest and
12 upright life, shall conduct himself or herself with
13 sobriety and industry, shall exhibit a good moral
14 character, and shall conform to and obey the laws of the
15 land.

16
17
18 **SUPERIOR COURT JURISDICTION**

19 The court that has jurisdiction over a certificate of
20 rehabilitation if the Superior Court of the County of Residency.
21 This is also the case Certificate of Rehabilitations from
22 Misdemeanor violations.

23 **§ 4852.06.** Except as provided in subdivision (a) of Section
24 4852.01, after the expiration of the minimum period of
25 rehabilitation applicable to him or her (and, in the case

1 of persons released upon parole or probation, after the
2 termination of parole or probation), each person **who has**
3 **complied with the requirements of Section 4852.05 may file**
4 **in the superior court of the county in which he or she then**
5 **resides** a petition for ascertainment and declaration of the
6 fact of his or her rehabilitation and of matters incident
7 thereto, and for a certificate of rehabilitation under this
8 chapter.

9
10 **CONCLUSION**

11 **ARGUE FACTS THAT SHOW THAT DEFENDANT DESERVES A CERTIFICATE OF**
12 **REHABILITATION**