

PROPOSITION 64 PETITION

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN MATEO
400 County Center, Redwood City CA 94063

Attorney:

Address:

Phone:

FAX:

Email:

Attorney for Defendant/Petitioner:

(DOB:)

Case Number:

Respondent: OFFICE OF THE DISTRICT ATTORNEY, SAN MATEO COUNTY

PETITION FOR RESENTENCING – RESPONSE AND ORDER [H&S CODE SECTION 11361.8]

Petitioner/Applicant states the following regarding the underlying case to support granting this petition and alleges s/he is entitled to resentencing, redesignation or dismissal pursuant to Health and Safety Code section 11361.8.

On (date) _____, Petitioner, the defendant in the above entitled action, was convicted of Health and Safety Code section _____ which has been reclassified under Proposition 64.

At the time of the conduct underlying this conviction was committed he/she was:

18-20 years old; 21 years old or older. Date of Birth: _____

A. CURRENTLY SERVING A SENTENCE

Petitioner is currently in custody for this case at CDCR San Mateo County Jail
 Petitioner is currently being supervised for this case on Probation, Mandatory Supervision, PRCS, or Parole

Petitioner is currently serving the sentence for the crime noted above, and requests that the sentence be recalled, that the charge be redesignated as a misdemeanor, infraction or be dismissed, and that he/she be resentenced or that the charge be dismissed as required by law. (Serving a sentence includes supervision of any kind.)

Petitioner asks that the court release him/her from any supervision remaining in connection with the original sentence.

If the court does impose supervision after redesignation pursuant to Health and Safety Code section 11368.1(c), then Petitioner asks that supervision be modified as follows:

_____.

Petitioner Requests a Hearing to determine appropriate resentencing conditions.

B. COMPLETED SENTENCE

Petitioner has completed the sentence for the crime noted above, and requests that the sentence be recalled and that the conviction be redesignated as a () misdemeanor () infraction or be dismissed as required by law.

If the conviction is dismissed, Petitioner requests the court’s record of conviction be sealed.

(For 11357 and 11360(b) convictions only)

The redesignated charge in this case falls under Health and Safety Code section 11361.5 and two years have passed since the conviction date or the date incarceration ended. If the court grants redesignation, Petitioner requests that the arrest and conviction records of this case be destroyed pursuant to the law.

Petitioner waives his/her right have this matter heard by the judge who initially imposed sentence.

Date: _____
_____ Defendant/Petitioner or Attorney

The District Attorney’s Response:

Petitioner is still serving his/her sentence and is entitled to resentencing, redesignation or dismissal, as follows _____

Petitioner has completed his/her sentence and is entitled to have the felony or misdemeanor conviction(s) redesignated or dismissed, as follows: _____

Petitioner is not entitled to the relief requested. Reason: _____

The District Attorney objects to the requested dismissal, or sealing of the case.

The District Attorney agrees objects to requested termination of supervision.

The District Attorney agrees to the requested resentencing conditions except for the following: _____

The District Attorney requests resentencing conditions include: _____

The District Attorney requests a hearing to determine appropriate resentencing conditions.

A hearing should be held to determine whether defendant poses an unreasonable risk of danger to public safety.

Date: _____
_____ Deputy District Attorney

ORDER OF THE SAN MATEO COUNTY SUPERIOR COURT

The request to resentence and/or redesignate the charge(s) identified in the petition is GRANTED. The count(s) identified is/are ordered redesignated as misdemeanor(s), infraction(s); or are ordered dismissed.

The Court's record of conviction is ordered sealed. No access to the information shall be permitted without court order. The dismissed convictions are deemed to be legally invalid.

The records of arrest and conviction are ordered destroyed pursuant to Health and Safety Code section 11361.5.

Resentencing in this case includes supervision as follows:

The Court orders that the balance of the originally imposed supervision stay in place (where less than one year).

The Court imposes 1 year supervision following completion of petitioner's time in custody on this case, pursuant to Health and Safety Code 11361.8(c)

The Court releases the Petitioner from any form of post-conviction supervision.

If imposed, Conditions of Supervision will be:

As ordered when Petitioner was originally sentenced or placed on Supervision;

Conditions are modified as followed:

_____.

The Petition for redesignation and/or resentencing is DENIED.

The Petition to dismiss the charge is DENIED.

The Petition for destruction of records pursuant to HS 11361.5 is DENIED.

The matter is ordered set for hearing or resentencing on _____, at 1:30 p.m. in Department _____ of The Superior Court.

Any conviction that is recalled and resentenced under Health and Safety code section 11361.8 and designated as a misdemeanor or infraction shall be considered a misdemeanor or infraction for all purposes.

Date: _____

Judge of the Superior Court

Case #: