

**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

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**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 #: