_____ Court of Washington, County of _____

_____ Plaintiff vs. _____ Defendant	**No.** _____ **Petition and Declaration for Order Vacating Conviction (PT)**

Petition and Declaration for Order Vacating Conviction

I. Petition

1. Defendant asks the court for an order vacating defendant's conviction/s of misdemeanor or gross misdemeanor offenses. This petition is based on RCW 9.96.060 and RCW 9.96.080, the case record and files, and the declaration of defendant.

Dated: _____

_____
Defendant/Defendant's Attorney, WSBA #

_____
Print Name

II. Declaration of Defendant

2. I, *(name)* _____, state as follows:

On *(date)* _____ I was convicted of the following offense/s:

Count No: ____ Offense: _____

Count No: ____ Offense: _____

Count No: ____ Offense: _____

Offense Committed as a Victim of Certain Crimes

3. [ ] **Conviction as Victim.** I was convicted of a misdemeanor or gross misdemeanor, and the conviction was a result of being a victim of sex trafficking, prostitution, or commercial sexual abuse of a minor; sexual assault; or domestic violence as defined in RCW 9.94A.030. All of the following are true:

- I am providing to the sentencing court, or the sentencing court's successor, my

statement of the specific facts and circumstances below that prove by a preponderance of the evidence (more likely than not) that the offense was committed as a result of being a victim of one of the above offenses:

_____

_____

_____

_____

_____

_____

[ ] I have attached my statement that proves by a preponderance of the evidence (more likely than not) that the offense was committed as a result of being a victim of one of the above offenses.

- I have no criminal charges pending in any court of this state or another state.
- I have no criminal charges pending in any federal court for any crime other than prostitution.
- I was convicted of a misdemeanor, and I have not been convicted of a new crime in this state, another state, or tribal court in the 3 years prior to the date of this petition being filed. RCW 9.96.060(2)(h).
- I have provided proof that the crime victim penalty assessment (RCW 7.68.035) has been paid in full, except where the conviction being vacated is for the crime of prostitution, prostitution loitering, or stay out of the area of prostitution.
- Restitution owed to any victim, excluding restitution owed to any insurance provider under Title 48 RCW, has been paid in full.
- The offense was not a misdemeanor or gross misdemeanor violation, including attempt, of chapter 9.68 RCW (obscenity and pornography), or chapter 9A.44 RCW (sex offense), except for failure to register as a sex offender under RCW 9A.44.132.
- The offense was not a conviction as described in RCW 46.61.5055.
- The offense was not patronizing a prostitute as described in RCW 9A.88.110.

Other Misdemeanor and Gross Misdemeanor Offenses

4. **Excluded Offenses:** I know I cannot ask the court to vacate a conviction for the following offenses. RCW 9.96.060(2)(c)-(e):

- A violation of chapter 9A.44 RCW (sex offenses), except for failure to register as a sex offender under RCW 9A.44.132.
- A violation of chapter 9.68 RCW (obscenity and pornography).
- A violation of chapter 9.68A RCW (sexual exploitation of children).
- A violent offense as defined in RCW 9.94A.030, or an attempt to commit a violent offense.
- Driving while under the influence ("DUI") (RCW 46.61.502).
- Actual physical control while under the influence (RCW 46.61.504).
- Operating a railroad, etc., while intoxicated (RCW 9.91.020).

5. [ ] **Prior Offense:** I was convicted of an offense that is considered a "prior offense" under RCW 46.61.5055 (see below). All of the following are true:

- The prior offense is not a DUI (RCW 46.61.502) or Physical Control (RCW 46.61.504). RCW 9.96.060(2)(d).

- I completed all of the terms of the sentence. All financial obligations for this case are satisfied. RCW 9.96.060(2)(a).
- I have not been convicted of any new crime in this state, another state, or federal or tribal court in the 3 years prior to this vacation application. RCW 9.96.060(2)(h).
- At least 3 years have passed since my release from supervision or probation, from total and partial confinement, or from my sentencing date, whichever is later. RCW 9.96.060(2)(g).
- I have not had a subsequent alcohol or drug violation within 10 years of the date of arrest for the prior offense. RCW 9.96.060(2)(d).
- More than 10 years have passed since the date of the arrest for the prior offense. RCW 9.96.060(2)(d).
- There are no criminal charges pending against me in any court of this state or another state, or in any federal or tribal court as of the date I filed this petition. RCW 9.96.060(2)(b).
- I am not currently restrained by a domestic violence protection order, a no-contact order, an anti-harassment protection order, or a civil restraining order which restrains one party from contacting the other party. I was not previously restrained by such an order and found to have committed 1 or more violations of the order in the last 5 years. RCW 9.96.060(2)(i).

A "prior offense" means (RCW 46.61.5055(14)):

Original Convictions, including equivalent local ordinances, for:

- Driving Under the Influence (DUI) (RCW 46.61.502) or an equivalent out-of-state conviction.
- Physical Control of a Vehicle under the Influence (Physical Control) (RCW 46.61.504) or an equivalent out-of-state conviction.
- Commercial Vehicle DUI/Physical Control (RCW 46.25.110).
- Watercraft DUI (RCW 79A.60.040(2)).
- Aircraft DUI (RCW 47.68.220).
- Nonhighway vehicle DUI (RCW 46.09.470(2)).
- Snowmobile DUI (RCW 46.10.490(2)).

Amended Convictions:

- **Originally charged with** DUI (RCW 46.61.502) or Physical Control (RCW 46.61.504) or an equivalent local ordinance, or Vehicular Homicide (RCW 46.61.520) or Vehicular Assault (RCW 46.61.522); **but convicted of** Negligent Driving 1st (RCW 46.61.5249), Reckless Driving (RCW 46.61.500), or Reckless Endangerment (RCW 9A.36.050) or an equivalent local ordinance. This section also applies for equivalent out-of-state convictions.
- **Originally charged with** Watercraft DUI (RCW 79A.60.040(2)) or an equivalent local ordinance, **but convicted of** Operating a Watercraft in a reckless manner (RCW 79A.60.040(1)) or an equivalent local ordinance.
- **Originally charged with** Aircraft DUI (RCW 47.68.220) or an equivalent local ordinance, **but convicted of** Operating an Aircraft in a careless or reckless manner (RCW 47.68.220) or an equivalent local ordinance.

Deferred Prosecution Granted for:

- Driving Under the Influence (DUI) (RCW 46.61.502), including local and out-of-state equivalents.

- Physical Control of a Vehicle under the Influence (Physical Control) (RCW 46.61.504), including local and out-of-state equivalents.
- Negligent Driving 1st (RCW 46.61.5249) or equivalent local ordinance if the charge under which the deferred prosecution was granted was originally filed as a violation of DUI (RCW 46.61.502) or Physical Control (RCW 46.61.504), or an equivalent local ordinance, or Vehicular Homicide (RCW 46.61.520) or Vehicular Assault (RCW 46.61.522).
- An equivalent out-of-state deferred prosecution for DUI or Physical Control, including a substance use disorder treatment program. (RCW 46.61.5055(14)(a)(xvi)).

Deferred Sentences for:
Originally charged with DUI (RCW 46.61.502) or Physical Control (RCW 46.61.504) or an equivalent local ordinance, or Vehicular Homicide (RCW 46.61.520) or Vehicular Assault (RCW 46.61.522); but deferred sentence was imposed for Negligent Driving 1st (RCW 46.61.5249), Reckless Driving (RCW 46.61.500), Reckless Endangerment (RCW 9A.36.050), or an equivalent local ordinance.

6. [ ] **Domestic Violence:** I was convicted of an offense involving domestic violence. I have complied with the following conditions (RCW 9.96.060(2)(f)) and all the following statements are true:
- I provided the prosecuting attorney's office that prosecuted the offense with written notice of this petition. RCW 9.96.060(2)(f)(i).
- I filed the original notice with this court. RCW 9.96.060(2)(f)(i).
- I have not been convicted of 2 or more domestic violence offenses stemming from different incidents. RCW 9.96.060(2)(f)(ii).
- I have never signed an affidavit under penalty of perjury where I lied, stating that I have not previously had a conviction for a domestic violence offense, but then a criminal history check revealed that I have had such a conviction. RCW 9.96.060(2)(f)(iii).
- I completed all of the terms of the sentence. All financial obligations for this case are satisfied. RCW 9.96.060(2)(a).
- It has been at least 5 years since I completed the terms of the original conditions of the sentence, including successful completion of any treatment ordered, but excluding the payment of financial obligations. RCW 9.96.060(2)(f)(iv).
- I have not been convicted of any new crime in this state, another state, or federal or tribal court in the 3 years prior to this vacation application. RCW 9.96.060(2)(h).
- I have no criminal charges pending against me in any court of this state or another state, or in any federal or tribal court as of the date I file this petition. RCW 9.96.060(2)(b).
- I am not currently restrained by a domestic violence protection order, a no-contact order, an anti-harassment protection order, or a civil restraining order which restrains one party from contacting the other party. I was not previously restrained by such an order and found to have committed 1 or more violations of the order in the last 5 years. RCW 9.96.060(2)(i).

7. [ ] **Offenses not otherwise specified above,** and all the following statements are true:
- I completed all of the terms of the sentence. All financial obligations for this case are satisfied. RCW 9.96.060(2)(a).

- At least 3 years have passed since my release from supervision or probation, from total and partial confinement, or from my sentencing date, whichever is later. RCW 9.96.060(2)(g).
- I have not been convicted of any new crime in this state, another state, or federal or tribal court in the 3 years prior to this vacation application. RCW 9.96.060(2)(h).
- There are no criminal charges pending against me in any court of this state or another state, or in any federal or tribal court as of the date I file this petition. RCW 9.96.060(2)(b).
- I am not currently restrained by a domestic violence protection order, a no-contact order, an anti-harassment protection order, or a civil restraining order which restrains one party from contacting the other party. I was not previously restrained by such an order and found to have committed 1 or more violations of the order in the last 5 years. RCW 9.96.060(2)(i).

I declare under penalty of perjury, under the laws of the state of Washington, that the foregoing and any attachments are, to the best of my knowledge, true and correct.

Signed at *(city or county)* _____, Washington on *(date)* _____.

_____
Defendant's Signature

_____
Print Name

Mailing Address, unless confidential:

_____
Street Address or PO Box *City* *State* *Zip*