

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Representing Self or Lawyer for _____
Lawyer's Bar Number: _____

For Clerk's Use Only

_____ **COURT OF ARIZONA**
IN _____ **COUNTY**

STATE OF ARIZONA

Case Number: _____

-vs-

Defendant (FIRST, MI, LAST)

**APPLICATION TO SET ASIDE
CONVICTION
(A.R.S. § 13-905)**

Date of Birth: _____

Note: Your application may entitle you to restoration of the right to possess and carry a firearm pursuant to A.R.S. § 13-905(J)

Applicant is:

- Defendant
- Attorney for Defendant
- Probation Officer

SECTION I. CONVICTION(S)

A Judgment of Guilt was entered in the _____ Court against the defendant on the _____ day of _____, _____, on the conviction of:

- 1. Count I: _____
- 2. Count II: _____
- 3. Count III: _____
- 4. Count IV: _____

Additional counts continue on a separate page.

SECTION II. SENTENCE COMPLIANCE

1. I have complied with all required terms of the **sentence** (including all probation, employment, classes, community restitution, victim restitution or other monetary obligations, drug/alcohol testing, or other requirements). **Yes** **No**. If no, please explain:

2. I received a certificate of absolute discharge from the Arizona Department of Corrections.
 Yes **No**.

3. Victim restitution [] **has** [] **has not** been paid in full or [] **was not ordered**.

If victim restitution has not been paid in full, please explain:

4. All other court-ordered monetary obligations [] **have** [] **have not** been paid in full or [] **were not ordered**.

If all other monetary obligations have not been paid in full, please explain:

In some circumstances, you may be eligible to apply to the court to modify the amount owed or convert monies owed to community restitution.

SECTION III. PRIOR SET ASIDE(S)

1. Have you previously applied to set aside any conviction? [] **Yes** [] **No**. If so, what was the date of your last application? _____
2. Have you previously been granted a set aside? [] **Yes** [] **No**.
3. Have you previously been denied a set aside? [] **Yes** [] **No**.

SECTION IV. PENDING CASES

1. Are there any open criminal cases against you? [] **Yes** [] **No**. If yes, please explain:

SECTION V. OTHER INFORMATION FOR THE COURT

1. Is there anything you would like the court to take into consideration?

2. [] Attached is other pertinent documentation. List attached documents:

3. The defendant, prosecutor, or the victim may request a hearing, but the court is not required to set a hearing. Do you request a hearing? [] **Yes** [] **No**.

Case Number: _____

I understand that even if I am granted the right to possess and carry a firearm pursuant to this application I may still be prohibited from possessing and carrying a firearm under other state or federal laws.

I understand that this application may be denied if information in this application is found to be inaccurate.

I declare under penalty of perjury that, to the best of my knowledge, the information provided in this application and any attachments is true and correct.

Print Defendant's Name

Defendant's Signature

Address

OR

AUTHORIZATION TO PROCEED ON BEHALF OF DEFENDANT

I authorize _____ [] Attorney, or [] Probation Officer to

petition the _____ Court in _____ County, to take the above-indicated action.

Date

Defendant's Signature

To the best of my knowledge, the information provided in this application is true and correct.

Print Attorney/Probation Officer Name

Attorney/Probation Officer Signature

Attorney/Probation Officer Address

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Representing Self or Lawyer for _____
Lawyer's Bar Number: _____

For Clerks Use Only

_____ **COURT OF ARIZONA**
IN _____ **COUNTY**

STATE OF ARIZONA, Plaintiff

Case Number: _____

-vs-

Defendant (FIRST, MI, LAST)

Date of Birth: _____

**ORDER REGARDING
APPLICATION TO SET ASIDE
CONVICTION AND RESTORATION
OF FIREARM RIGHTS**

A.R.S. §§ 13-905 & 13-910

Based upon the information presented to the Court, **THE COURT FINDS THAT:** (only those items marked)

The prosecutor has received a copy of the Application to Set Aside Conviction.

- The defendant **has met** all statutory requirements for setting aside the conviction; AND
- The defendant **has met** all statutory requirements for a certificate of second chance.
- The defendant **has not met** all statutory requirements for a certificate of second chance.

OR

- The defendant **has not met** all the statutory requirements for setting aside the conviction.
- The defendant was convicted of a criminal offense not eligible to be set aside due to:
 - a dangerous offense.
 - an offense for which the person is required or ordered by the court to register pursuant to A.R.S. § 13-3821.
 - an offense for which there has been a finding of sexual motivation pursuant to A.R.S. § 13-118.

a felony offense in which the victim is a minor under fifteen years of age.

IT IS ORDERED:

DENYING the application to set aside conviction for the following reasons:

The defendant **has not met** all statutory requirements for the application.

The defendant was convicted of a criminal offense **not eligible** for a conviction to be set aside.

Other reasons:
_____.

GRANTING the application setting aside the judgment of guilt, dismissing the complaint, information, or indictment, and that the applicant be released from all penalties and disabilities resulting from the conviction **except those imposed by:**

a. The **Department of Transportation** pursuant to A.R.S. §§ 28-3304, 28-3305, 28-3306, 28-3307, 28-3308, 28-3312, and 28-3319.

b. The **Game and Fish Commission** pursuant to A.R.S. §§ 17-314 or 17-340.

The applicant's right to possess a firearm is also **restored**.

OR

The applicant's right to possess a firearm is **DENIED** due to the applicant's conviction for a serious offense as defined in section 13-706.

CERTIFICATE OF SECOND CHANCE

IT IS FURTHER ORDERED:

DENYING a certificate of second chance.

OR

GRANTING a certificate of second chance, and accordingly, pursuant to A.R.S. § 13-905(K):

1. Unless specifically excluded by A.R.S. § 13-905(K), the defendant is released from all barriers and disabilities in obtaining an occupational license issued under title 32 that resulted from the conviction if the defendant is otherwise qualified;

2. An employer of the defendant is provided with all of the protections that are provided pursuant to section A.R.S. § 12-558.03;

Case Number: _____

3. Another person or an entity that provides housing to the defendant is provided with all of the protections limiting the introduction of evidence that are provided to an employer pursuant to A.R.S. § 12-558.03, subsection b; and
4. This certificate of second chance is not a recommendation or sponsorship for or a promotion of the defendant when applying for an occupational license, employment or housing.

DATED this _____ day of _____, _____.

Judicial Officer

Person Filing: _____
 Address (if not protected): _____
 City, State, Zip Code: _____
 Telephone: _____
 Email Address: _____
 Representing Self or Lawyer for _____
 Lawyer's Bar Number: _____

For Clerk's Use Only

_____ **COURT OF ARIZONA**
IN _____ **COUNTY**

STATE OF ARIZONA
 -vs-

Case Number: _____

 Defendant (FIRST, MI, LAST)
 Date of Birth: _____

Applicant is:
 Defendant
 Attorney for Defendant
 Probation Officer

APPLICATION TO:
 (check all that apply)
 RESTORE CIVIL RIGHTS
 (A.R.S. §§ 13-906, 13-907, and 13-908)
 RESTORE FIREARM RIGHTS
 (A.R.S. § 13-910)
 CERTIFY AUTOMATIC RESTORATION OF CIVIL RIGHTS
 REQUEST FOR RECONSIDERATION
 (for applications previously denied)
 Civil Rights Firearm Rights

SECTION I. CONVICTION(S)

A Judgment of Guilt was entered in the _____ Court against the defendant on the _____ day of _____, _____, on the conviction of:

1. Count I: _____
2. Count II: _____
3. Count III: _____
4. Count IV: _____

Additional counts continue on a separate page.

SECTION II. STATE CONVICTION (For federal convictions, see SECTION III.)

NOTE: If this is your first felony conviction in this or any other state, any civil rights lost or suspended by the conviction are automatically restored if you completed a term of probation or received an

absolute discharge from imprisonment and paid all victim restitution imposed; however, your right to possess and carry a firearm requires an application if it was not automatically restored. Refer to the **Note in Section VII** of this application.

- 1. The above stated judgment of guilt and conviction for a felony is my first felony conviction in this or any other state and this application is for restoration of right to possess and carry a firearm only.

Yes **No.**

- 2. I received a certificate of absolute discharge from the **Arizona Department of Corrections** AND have attached a copy of that certificate to this petition, if available.

OR

- 3. I was discharged from **probation** and I have complied with all required terms of my **probation** (including all employment, classes, community restitution, drug/alcohol testing, or other requirements other than court-ordered monetary obligations).

OR

I was discharged from **probation** and I have not complied with all terms of my **probation**.

Explain:

SECTION III. FEDERAL CONVICTION (For state convictions, see SECTION II.)

- 4. A Judgment of Guilt was entered against the defendant in United States District Court for the District of _____ on the _____ day of _____, _____.

NOTE: If this is your first felony conviction in this or any other state, any civil rights lost or suspended by the conviction are automatically restored if you completed a term of probation or received an absolute discharge from imprisonment and paid all restitution imposed; however, your right to possess and carry a firearm requires an application if it was not automatically restored. Refer to the **Note in Section VII** of this application. This applies to federal first convictions as well.

- 5. The above stated judgment of guilt and conviction for a felony is **my first felony conviction** in this or any other state and this application is for restoration of right to possess and carry a firearm only. **Yes** **No.**

- 6. I was sentenced to a term of **federal probation**, received an Affidavit of Discharge from the judge who discharged me from probation or other official documentation that indicates successful discharge from probation, **AND** have attached a copy to this petition.

OR

I was sentenced to and successfully **served a federal prison term** and received a Certificate of Absolute Discharge, or other official documentation that indicates successful discharge from imprisonment from the Federal Bureau of Prisons **AND** I have attached a copy of the certificate. If it is impossible to obtain the Certificate of Absolute Discharge from the Federal Bureau of Prisons, please explain:

7. I have complied with all required terms of **probation** (including all employment, classes, community restitution, victim restitution or other monetary obligations, drug/alcohol testing, or other requirements.)

OR

I have **not complied** with all terms of probation. Explain:

SECTION IV. VICTIM RESTITUTION AND PRIOR COURT ORDERED MONETARY OBLIGATIONS

8. Victim restitution **has** **has not** been paid in full or **was not ordered**. If victim restitution as not been paid in full, please explain:

9. All other monetary obligations **have** **have not been** paid in full or **were not ordered**. If all other monetary obligations have not been paid in full, please explain:

In some circumstances you may be eligible to apply to the court to modify the amount owed or convert monies owed to community restitution (State offenses only, not for Federal convictions).

SECTION V. PRIOR RESTORATION OF RIGHTS

10. Have you previously applied to have your rights restored? [] **Yes** [] **No**. If so, what was the date of your last application? _____
11. Have you been granted the restoration of your rights previously? [] **Yes** [] **No**.
12. Have you been denied the restoration of your rights previously? [] **Yes** [] **No**.

SECTION VI. PENDING CASES

13. Are there any open criminal cases against you? [] **Yes** [] **No**.
If yes, please explain:

SECTION VII. RESTORATION OF FIREARM RIGHTS

NOTE: Arizona Revised Statutes require:

A person who is convicted of a dangerous offense under A.R.S. § 13-704 or an offense committed in another state that would be a dangerous offense under A.R.S. § 13-704 if committed in this state may not file for the restoration of the right to possess and carry a firearm. A “dangerous offense” is defined under A.R.S. § 13-105(13), as “an offense involving 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.”

A person who is convicted of a serious offense as defined in A.R.S. § 13-706 or an offense committed in another state that would be a serious offense as defined in A.R.S. § 13-706 if committed in this state may not file for the restoration of the right to possess and carry a firearm for **ten (10) years** from the date of the person’s absolute discharge. For the purpose of this section, a “serious offense” is defined in A.R.S. § 13-706(F)(1) as any one of the following offenses:

First degree murder	Sexual assault	Burglary in the first degree
Second degree murder	Any dangerous crime against children	Kidnapping
Manslaughter	Arson of an occupied structure	Sexual conduct with a minor under fifteen years of age
Aggravated assault resulting in serious physical injury or involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument.	Armed robbery	Child sex trafficking

Your application to restore firearm rights may be denied if you were convicted of one of the excluded offenses or the time since your discharge from probation or imprisonment does not meet the statutory requirements.

14. If you are requesting that your civil right to possess and carry a firearm be restored, please explain your reasons for the request below:

SECTION VIII. OTHER INFORMATION FOR THE COURT

15. Is there anything you would like the court to take into consideration?

16. Attached is other pertinent documentation. List attached documents:

I understand that even if I am granted the right to possess and carry a firearm pursuant to this application I may still be prohibited from possessing and carrying a firearm under other state or federal laws.

I understand that this application may be denied if information in this application is found to be inaccurate.

I declare under penalty of perjury that the information provided in this application is true and correct.

Print Defendant's Name

Defendant's Signature

Address

OR

Case Number: _____

AUTHORIZATION TO PROCEED ON BEHALF OF DEFENDANT

I authorize _____ [] attorney or [] probation officer to petition the
_____ Court in _____ County, to take the above-indicated
action.

Date

Defendant's Signature

To the best of my knowledge, the information provided in this application is true and correct.

Print Attorney/Probation Officer Name

Attorney/Probation Officer Signature

Attorney/Probation Officer Address

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Representing Self or Lawyer for _____
Lawyer's Bar Number: _____

For Clerk's Use Only

_____ **COURT OF ARIZONA**
IN _____ **COUNTY**

STATE OF ARIZONA

Case Number: _____

-vs-

Defendant (FIRST, MI, LAST)

**ORDER REGARDING
APPLICATION TO RESTORE OR
TO CERTIFY AUTOMATIC
RESTORATION OF CIVIL RIGHTS
AND FIREARM RIGHTS**

Date of Birth: _____

(A.R.S. §§ 13-906, 13-907, 13-908 and 13-910)

Based on the information presented to the Court, **THE COURT FINDS:** (only those items marked)

- The defendant is entitled to automatic restoration of rights,
 - including the right to possess and carry a firearm.
 - excluding the right to possess and carry a firearm.
- The defendant is not entitled to automatic restoration of rights.
- The prosecutor has received a copy of the Application to Restore Civil Rights and Right to Possess and Carry a Firearm.
- The defendant **has met** the statutory requirements for the application to restore civil rights.
- The defendant **has met** the statutory requirements for the application to restore civil rights and to possess and carry a firearm.
- The defendant **has not met** the statutory requirements for the application to possess and carry a firearm for the following reasons:
 - The defendant was convicted of a **dangerous** offense as defined in A.R.S. § 13-704.

- The defendant was convicted of a **serious** offense as defined in A.R.S. § 13-706 and **less than ten years** have passed from the date of discharge from probation or prison.

IT IS ORDERED:

- CERTIFYING that the defendant's rights have been automatically restored,
 - including the right to possess and carry a firearm.
 - excluding the right to possess and carry a firearm.
- DENYING the application to certify automatic restoration of civil rights, including the right to possess and carry a firearm.
- GRANTING the application to restore civil rights **and** right to possess and carry a firearm.
- GRANTING the application to restore civil rights **excluding** the right to possess and carry a firearm.
- GRANTING the application to restore the right to possess and carry a firearm.
- DENYING the application to restore civil rights and right to possess and carry a firearm for the following reasons:
 - The applicant **has not met** the statutory requirements for the application (as noted above):
 - Other reasons: _____.

Even if you are granted the right to possess and carry a firearm pursuant to this order you may still be prohibited from possessing and carrying a firearm under other state or federal laws.

DATED this _____ day of _____, _____.

Judicial Officer

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR PIMA COUNTY**

STATE OF ARIZONA

CASE
NUMBER: _____

(Must submit a separate notice for each case)

VS.

NOTICE OF HEARING

DEFENDANT (Print name)

NOTE: Defendant should not fill out the information on the hearing date and place, below. The Court will complete it and send Defendant a copy. Defendant should, however, sign, date and provide his/her mailing address at the bottom of this page.

PLEASE TAKE NOTICE that the Defendant's Petition for Restoration of Civil Rights and/or Set Aside of Judgment will be brought for hearing before the Pima County Superior Court, Division _____, on the _____ day of _____, 201____, at the hour of _____ a.m./p.m. Defendant must attend this hearing.

DATED this _____ day of _____, 201____.

Defendant's or Attorney's Signature

Date

Telephone Number

Defendant's or Attorney's complete mailing address

Distribution:

Hon. _____, Div. _____

Defendant

Clerk's Office – Criminal Section

Pima County Attorney – Criminal Division (if state case)

Arizona Attorney General – Criminal Section (if federal case)

INSTRUCTIONS FOR RESTORATION OF CIVIL RIGHTS & SET ASIDE PETITION

I. WHAT DOES RESTORATION OF CIVIL RIGHTS AND SET ASIDE MEAN?

If you have been convicted of a **felony** (or felonies), you lost certain civil rights including:

- * the right to vote
- * the right to serve on juries
- * the right to hold certain public offices
- * the right to possess guns or firearms

If you were convicted of a **misdemeanor**, you did not lose any civil rights and you do not need to petition for restoration. There is an exception. Defendants convicted of certain types of charges of domestic violence either misdemeanor or felony, may be prohibited from possessing guns and listed in a federal registry, pursuant to federal law. This prohibition cannot be reversed through the restoration process.

A **Petition to Restore Civil Rights** is a request for a judge to restore rights lost as a result of a criminal conviction, listed above. NOTE: Rights to possess a firearm are discussed in further detail in Section IV.

A **Petition to Set Aside** is a request for a judge to overturn a judgement of guilt. If your **Petition to Set Aside** is granted, the court will set aside the judgement, and dismiss the complaint, information or indictment. The Clerk of the Court will notify the Arizona Department of Public Safety regarding your set aside order. NOTE: A Set Aside order does not completely remove your criminal history or seal your court record.

BOTH a **Petition to Restore Civil Rights** and a **Petition to Set Aside** are discretionary. Meaning a judge will determine whether to grant or deny your request.

YOU DO **NOT** QUALIFY FOR A SET ASIDE IF YOU WERE CONVICTED OF ONE OF THE FOLLOWING:

1. A dangerous offense
2. If you are required to register as a sex offender
3. If the offense was found to have a sexual motivation
4. If the victim was under 15 years of age; or
5. Certain traffic offenses in Title 28.

II. GENERAL INFORMATION ABOUT FILING PETITIONS:

PLEASE READ AND FOLLOW ALL THE INSTRUCTIONS CAREFULLY

Completed Petitions, with all required attachments, must be filed with:

Criminal Section of the Pima County Superior Court Office of the Clerk
110 W. Congress St., Tucson, Arizona 85701
Located on the first floor

Questions can be directed to: (520) 724-3228. Forms and information about restoration can also be found online at: <http://www.cosc.pima.gov/home.asp?include=pages/criminalforms.htm>

There are **no filing fees** for Petitions to Restore Civil Rights or Set Aside Convictions. However, a judge may consider if the fines, fees and restitution previously ordered are paid when deciding whether to grant your request. Payment history can be obtained by contacting the Financial Obligations Section of the Clerk's Office at (520) 724-3263.

You do not need to be represented by an attorney to file a Petition. Please be aware that the Clerk's Office cannot give you legal advice and will file your Petition in whatever form you present it. If you have legal questions, you must refer them to an attorney.

If you have questions about completing your Petition or need legal advice or representation, you may contact:

Professor Andy Silverman
Civil Rights Restoration Clinic - Rogers College of Law, University of Arizona
Telephone: (520) 306-0298 Email: asilverm@arizona.edu

III. WHAT YOU NEED TO COMPLETE A PETITION:

Make sure that you answer every question, fill in every blank line, and check every applicable box on the Petition. Also, make sure you attach to your Petition all required documents necessary to process your request.

If you were sentenced to **state prison** and are applying for Civil Rights Restoration, you **must obtain** a copy of your Certificate of Absolute Discharge, from the Arizona Department of Corrections (DOC). DOC is located at 1601 W. Jefferson, Phoenix, AZ 85007.

Further information may be found online at: <https://corrections.az.gov/prison-operations>

If you were sentenced to **federal prison**, you **must request** a copy of your Certificate of Absolute Discharge, from the Federal Bureau of Prisons. The Bureau of Prisons is located at: 320 First Street, NW, Washington, DC 20534. If the Bureau of Prisons is unable to provide you with a Certificate of Absolute Discharge, you **must** attach to your Petition proof that you requested a Certificate, as well as any official documentation that is provided in response to your request.

If you were sentenced to a term of **federal probation**, you **must obtain** a copy of your Affidavit of Discharge from probation or the Order Terminating Probation, issued by the sentencing judge upon your successful termination from probation.

NOTE: Your proof of discharge from **state** or **federal prison** or **probation** must be dated **at least two (2) full years prior to the date your Petition is filed.**

Please note:

1. Pima County Superior Court **will only** accept Petitions concerning convictions in Pima County Superior Court or in a United States District Court. It **will not** accept Petitions concerning convictions in a Justice Court or City Court in Pima County, you must go directly to the lower court where conviction occurred to set aside those matters.

2. If you were convicted of **multiple felony** offenses, the Court must consider each one separately.

- If you have more than one case number, you must prepare and file a separate Petition for each case.
- If your case involved multiple counts, you must list each one, but do not need to file a separate Petition for each count.
- If you have both state and federal convictions, you must fill out separate Petitions for each one.

A Pima County Superior Court judge can grant restoration of civil rights under Arizona state law and has no authority to grant restoration of civil rights under federal law or under the laws of another state. If you want civil rights restored elsewhere, you **must** petition each state separately.

IV. REQUEST TO POSSESS A GUN OR FIREARM:

Please note that you may not petition for restoration of gun rights sooner than **two (2) years from the date you were successfully discharged from prison or probation**. If you were convicted of a **serious offense** as defined in A.R.S. 13-706 you are not be eligible to have your right to possess a gun restored until 10 years from date of discharge of probation.

V. WHAT TO EXPECT AFTER FILING A PETITION?

After receiving your Petition, the Clerk's Office will serve a copy of it on the State agency that prosecuted your case. The State may respond to your Petition and may recommend that the Court grant your request for restoration or deny it. If the State responds, it must serve a copy of its response on you.

Some Petitions for Restoration of Civil Rights and/or Set Asides are decided without a hearing. If this happens, you will receive a copy of a Minute Entry from the Court indicating whether your Petition was granted or denied. Otherwise, you will be notified approximately 45 days from the date of submission, advising you of a hearing date as to when your case will come before a judge for a decision. **YOU ARE REQUIRED TO ATTEND THE HEARING.** If physical attendance is impossible, you must request the judge, **in writing**, for permission to attend via telephone.

If you have additional questions regarding your rights, you may want to refer to Title 13 of the Arizona Revised Statutes, A.R.S. § 13-904 through A.R.S. § 13-910, located online at: <https://www.azleg.gov/arsDetail/?title=13>

You can also do an Internet search of "Arizona Revised Statutes."