

**KITSAP COUNTY DISTRICT COURT, STATE OF WASHINGTON**

<p>_____, Plaintiff</p> <p align="center">vs.</p> <p>_____, Defendant</p>	<p>No. _____</p> <p><b>ORDER ON MOTION RE: VACATING CONVICTION</b></p> <p><input type="checkbox"/> Granted <input type="checkbox"/> Denied</p> <p><b>Clerk's Action Required</b></p>
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**I. BASIS**

THIS MATTER comes before the court on defendant's motion for order vacating misdemeanor or gross misdemeanor conviction pursuant to RCW 9.96.060. The court having heard argument of the parties and considered the case records and files, and the pleadings submitted on the matter.

**II. FINDINGS**

2.1  Adequate notice  was  was not given to the appropriate parties and agencies.

2.2 Defendant \_\_\_\_\_ satisfied the following requirements of RCW 9.96.060:

There are no criminal charges pending against the defendant in any court of this state or another state, or in any federal court [RCW 9.96.060(2)(a)];

The offense for which the defendant was convicted is **not** one of the following offenses [RCW 9.96.060(2)(b)-(d)]:

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
A violation of chapter 9A.44 RCW (sex offenses)
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

The offense for which the defendant was convicted does **not** involve domestic violence and it has been at least three years since the defendant completed the terms and conditions of the sentence, including restitution/legal financial obligations. RCW 9.96.060(2)(f).

*Or*

The offense for which the defendant was convicted **does** involve domestic violence and the defendant complied with the following conditions [RCW 9.96.060(2)(e)]:

The defendant provided the prosecuting attorney's office that prosecuted the offense with written notice of this petition. RCW 9.96.060(2)(e)(i).

- The defendant filed the original notice with this court. RCW 9.96.060(2)(e)(i).
- The defendant has not been convicted of any other domestic violence offense arising out of any other incident. RCW 9.96.060(2)(e)(ii).
- It has been at least five years since the defendant completed the terms and conditions of the sentence, including restitution/legal financial obligations and successful completion of any treatment ordered. RCW 9.96.060(2)(e)(iv).
- The defendant has not been convicted of any new crime in this state, another state, or federal court since the defendant was convicted in this matter. RCW 9.96.060(2)(g).
- The defendant has never had the record of another conviction vacated. RCW 9.96.060(2)(h).
- The defendant is not currently and has not been restrained within the last five years 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. RCW 9.96.060(2)(i).

2.3 The defendant  has  has not been convicted of any other domestic violence offense arising out of any other incident and  has  has not been convicted of a new crime since the date of conviction in this matter based upon the criminal history check of the following records:

- Washington State Crime Information Center (WASIC), RCW 43.43.500 et seq;
- National Crime Information Center (NCIC), including the Interstate Identification Index (Triple I), 28 USC Section 534;
- Judicial Information System (JIS), including Defendant Case History (DCH) from the District and Municipal Court Information System (DISCIS), RCW 2.68 et seq. and JISCR.

### III. ORDER

Based on the above findings, it is hereby ordered:

3.1  The motion for order vacating conviction records of the following offense(s) is denied.  
 Cause No: \_\_\_\_\_ Count No: \_\_\_\_ Offense: \_\_\_\_\_  
 Cause No: \_\_\_\_\_ Count No: \_\_\_\_ Offense: \_\_\_\_\_  
 Cause No: \_\_\_\_\_ Count No: \_\_\_\_ Offense: \_\_\_\_\_

3.2  The motion for order vacating conviction records of the following offense(s) is granted.  
 Cause No: \_\_\_\_\_ Count No: \_\_\_\_ Offense: \_\_\_\_\_  
 Cause No: \_\_\_\_\_ Count No: \_\_\_\_ Offense: \_\_\_\_\_  
 Cause No: \_\_\_\_\_ Count No: \_\_\_\_ Offense: \_\_\_\_\_

IT IS FURTHER ORDERED that:

3.3  The defendant's guilty plea for the offense listed in paragraph 3.2 is withdrawn and a not guilty plea is entered.

The guilty verdict for the offense listed in paragraph 3.2 is set aside.

3.4 The charging document is dismissed and the judgment and sentence is vacated for the offense listed in paragraph 3.2.

3.5 The defendant shall be released from all penalties and disabilities resulting from the offense listed in paragraph 3.2 and the conviction of that offense shall not be included in the defendant's criminal history for purposes of determining a sentence in any subsequent conviction. However, the conviction may be used in a later criminal prosecution.

3.6 For all purposes, the defendant may state that he or she has never been convicted of the offense listed in paragraph 3.2.

- 3.7  The defendant has paid costs incurred by the court and probation services in the amount of \$\_\_\_\_\_.
- The defendant is indigent and costs are waived. RCW 9.96.060(4).
- 3.8 The clerk of the court shall immediately transmit a certified copy of this order to the Washington State Patrol and to \_\_\_\_\_(local law enforcement agency) which agencies shall immediately update their records to reflect the vacation of the conviction of the offense listed in paragraph 3.2. The Washington State Patrol shall transmit a copy of this order to the Federal Bureau of Investigation. The Washington State Patrol or local law enforcement agency may not disseminate or disclose a conviction that has been vacated under RCW 9.96.060 to any person, except to other criminal justice enforcement agencies. RCW 9.96.060(5).

Dated and Filed: \_\_\_\_\_

\_\_\_\_\_  
JUDGE