

# NOGALES CITY COURT

777 NORTH GRAND AVE ♦ NOGALES, ARIZONA 85621 ♦ PHONE: (520) 287-3181 ♦ FAX (520) 287-2652

## SET ASIDE JUDGMENT AND ORDER INFORMATION

Every person convicted of a criminal offense who has fulfilled all conditions of their probation or sentence **and** had their case discharged by the Court may apply to have the judgment of guilt set aside. You **CANNOT** have your conviction set aside if you were convicted of:

- Any offense involving the infliction of serious physical injury of the use of exhibition of a deadly weapon or dangerous instrument; OR
- Any offense for which you are required or ordered by the Court to register as a sex offender pursuant to A.R.S. §13-3821 (see A.R.S. §§13-1402(B), 13-3822, 13-3824); OR
- Any offense in which the victim is a minor under 15 years of age; OR
- Driving on a suspended license (A.R.S. §28-3473); OR
- Any local ordinance relating to stopping, standing or operation of a vehicle; OR
- Any violation of Title 28, Chapter 3 (most civil traffic infractions, parking violations and equipment violations), **except** a violation of Section 28-693 (reckless driving) or any local ordinance relating to the same subject matter as Section 28-693 (reckless driving).

### WHAT DOES IT MEAN TO HAVE A JUDGEMENT OF GUILT SET ASIDE

- If the judge sets aside the judgment of guilt, you are released from all penalties and disabilities resulting from the conviction.
- The penalties and disabilities are any conditions imposed upon you as a result of the conviction, but **DO NOT** includes the terms imposed as part of your sentence.

### WHAT A SET ASIDE DOES NOT DO:

- A set aside **DOES NOT** erase the conviction from your record. Your record reads that the conviction was set aside.
- A set aside **DOES NOT** prevent the State from using the conviction in any subsequent criminal proceedings.
- A set aside **DOES NOT** include the refunding of fines (these are part of the conditions of your sentence that must be met before a set aside can be granted).
- A set aside **DOES NOT** prevent the ADOT Motor Vehicle Division from revoking or suspending your driver license or nonresident operating privilege, or from requiring you to attend and successfully complete traffic survival school. (A.R.S. §28-3304; A.R.S. §28-3306; A.R.S. §28-3307; A.R.S. §28-3398)
- A set aside **DOES NOT** mean that you can answer “NO” to direct inquiry of whether you have ever been convicted. You must answer “YES” but you may qualify that answer with the information that the conviction was set aside.

### NOTICE

**The Judge has discretion to grant or deny (without explanation) any application to set aside a judgment.**

**IN THE NOGALES MUNICIPAL COURT**

**777 NORTH GRAND AVENUE ♦ NOGALES ARIZONA 85621 ♦ PHONE: (520) 287-3181 ♦ FAX: (520) 287-2652**

THE STATE OF ARIZONA,  
Plaintiff  
Vs.  
  
\_\_\_\_\_

Case Number(s):

**APPLICATION TO SET  
ASIDE JUDGMENT AND  
ORDER**

Defendant.

APPLICATION

This Application is made in conformance with Arizona Revised Statutes and is addressed to the judge who pronounced sentence or imposed probation or to said judge's successor in office.

Applicant: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
Date of Birth: \_\_\_\_\_  
Offense(s): \_\_\_\_\_  
Date of Conviction: \_\_\_\_\_

Street Address: \_\_\_\_\_  
City, State, and Zip: \_\_\_\_\_  
AZ D.L. Number: \_\_\_\_\_  
Place of Conviction: \_\_\_\_\_

The undersigned states that the Defendant has fulfilled the conditions of Probation, or sentence, and was discharged by this Court. If the application is sworn to by Defendant's Attorney, or Probation Officer, either was authorized to do so as indicated by Defendant's signature below.

1. The judgment of guilt be set aside.
2. The accusation of citation be dismissed.
3. Defendant be released from all penalties and disabilities resulting from the conviction. **EXCEPT that the conviction may be pleaded and proved in any subsequent prosecution of the Defendant for any offenses as if the judgment of guilt had not been set aside.**

Dated: \_\_\_\_\_

Defendant/Attorney for Def: \_\_\_\_\_

Authorized: \_\_\_\_\_

STATE OF ARIZONA, COUNTY OF SANTA CRUZ

Being duly sworn, I depose and say: that I have read this Application and know and understand the contents therein; that the statements made in this Application are true and correct to the best of my knowledge.

Defendant: \_\_\_\_\_

Subscribed and sworn to be before me this \_\_day of \_\_\_\_\_ 20\_\_

Notary Public: \_\_\_\_\_

Date: \_\_\_\_\_

My commission Expires: \_\_\_\_\_

ORDER

**THE COURT**, has read the foregoing Application, and having allowed the State of Arizona to respond to said Application, and in accordance with Arizona Revised Statutes, being fully apprised of premises, **IT IS ORDERED:**

Granting the Application and **FURTHER ORDERING:**

1. That the judgment of Defendant's guilt be, and the same is set aside
2. That the Defendant's accusation, citation, or complaint be, and the same is dismissed
3. That Defendant be released from all penalties and disabilities resulting from the conviction or plea other than those imposed by the Department of Transportation pursuant to ARS 28-445 or 28-446, EXCEPT that the conviction may be pleaded and proved in any subsequent prosecution of the Defendant for any offenses as if the judgment of guilty had not been set aside.

Denying the Application for the following reasons: \_\_\_\_\_

Date: \_\_\_\_\_

Judge: \_\_\_\_\_