

**KITSAP COUNTY DISTRICT COURT
STATE OF WASHINGTON**

STATE OF WASHINGTON, <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p style="text-align: center;">_____, Defendant.</p>	No. _____ PETITION AND DECLARATION TO VACATE CONVICTION – TREATY INDIAN FISHING RIGHTS
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CHOOSING THE CORRECT FORM

Washington law authorizes a court to vacate a misdemeanor or gross misdemeanor conviction in six separate situations. You must submit the correct petition to vacate conviction. Your options are –

- (1) Cannabis conviction – RCW 9.96.060(5) (form 950765);
- (2) Controlled Substance Treatment completed – RCW 9.96.060(6) (form 950770);
- (3) Crime Victim (Sex or Domestic Violence) – RCW 9.96.060(3); .080 (form 950775);
- (4) Prostitution Homicide Victim – RCW 9.96.060(7) (form 950780);
- (5) Treaty Indian Fishing Rights conviction – RCW 9.96.060(4) (form 950785); and
- (6) Vacation when none of the above apply – RCW 9.96.060(2) (form 950760).

Use this form 950785 when the conviction you want vacated is under (5) above.

1. PETITION

Applicant asks the Court for an order vacating defendant’s conviction of misdemeanor or gross misdemeanor offenses. This petition is based on RCW 9.96.060(4), the case record and files, and the attached declaration of a family member.

DATED – _____

/s/ Signed Electronically

Applicant/Applicant’s Attorney, WSBA No.

[Note – By typing your name, you intend to sign electronically and agree your electronic signature is the same as a handwritten signature for the purpose of validity, enforceability, and admissibility.]

2. DECLARATION OF APPLICANT

I, (*name*) _____ state as follows –

2.1 **Applicant Status.**

___ I am the defendant.

___ The defendant is deceased. I am a family member of the defendant.
(describe your relationship to the defendant) –

___ The defendant is deceased. I am an official representative of the Tribe of which
defendant was a member. (describe your official capacity) –

2.2 **Conviction(s).** On (*date*) _____, the defendant was convicted of
the following offense(s) in this case –

Count No. 1 Offense – _____

Count No. 2 Offense – _____

Count No. 3 Offense – _____

Count No. 4 Offense – _____

Count No. 5 Offense – _____

Count No. 6 Offense – _____

Count No. 7 Offense – _____

Count No. 8 Offense – _____

Count No. 9 Offense – _____

Count No. 10 Offense – _____

2.3 **Qualifying Conviction (Before January 1, 1975).** The defendant was convicted prior to
January 1, 1975 of violating any statute or rule regarding the regulation of fishing activities,
including, but not limited to – [former] RCW 75.08.260, 75.12.060, 75.12.070, 75.12.160,
77.16.020, 77.16.030, 77.16.040, 77.16.060, and 77.16.240.

2.4 **Tribal Indian Fishing Right Being Exercised.** Applicant claims that defendant was exercising
a treaty Indian fishing right.

2.5 **Tribal Member.** The defendant is/was a member of the following Tribe –

2.6 **Treaty Indian Fishing Rights.** The Tribe described in paragraph 2.5 above and its members may exercise treaty Indian fishing rights within the customary fishing domain of the Tribe at the location where the offenses occurred in this case under the reserved rights of the following –

- ___ Treaty of Medicine Creek; December 26, 1854 [10 Stat. 1132].
- ___ Treaty of Point Elliott; January 22, 1855 [12 Stat. 927].
- ___ Treaty of Point No Point; January 26, 1855 [12 Stat. 933].
- ___ Treaty of Neah Bay; January 31, 1855 [12 Stat. 939].
- ___ Treaty with the Walla Walla, June 9, 1855 [12 Stat. 945].
- ___ Treaty with the Yakama; June 9, 1855 [12 Stat. 951].
- ___ Treaty with the Nez Perce Tribe, June 11, 1855 [12 Stat. 957].
- ___ Treaty with the Tribes of Middle Oregon, June 25, 1855 [12 Stat. 963].
- ___ Treaty of Olympia; July 1, 1855, and January 25, 1856 [12 Stat. 971].
- ___ Treaty with the Bitterroot Salish, Kootenai, and Pend d’Oreille, July 16, 1855 [12 Stat. 975].

I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct, and that I am the person whose name I typed (or wrote) below.

SIGNED at (city) _____, (state) _____ on (date) _____.

/s/ Signed Electronically

[Note – By typing your name, you intend to sign electronically and agree your electronic signature is the same as a handwritten signature for the purpose of validity, enforceability, and admissibility.]

WHAT ELSE DO I NEED TO DO?

1. **Schedule Hearing.** Schedule a hearing by preparing a Notice of Hearing to Vacate Conviction (form 950790).
2. **Make 2 Copies.** Make 2 copies of the Petition to Vacate Conviction and 2 copies of the Notice of Hearing to Vacate Conviction (1 copy for the prosecutor and 1 copy for yourself).
3. **File Documents.** File the original Petition to Vacate Conviction and the original Notice of Hearing to Vacate Conviction with the Court.
4. **Copies To Prosecutor.** On the same day you file the documents with the Court, provide a copy of the Petition to Vacate Conviction and Notice of Hearing to Vacate Conviction to the prosecutor.
5. **Appear.** Appear for your hearing.
6. **Order.** You do not need to prepare an order because the Judge will do so at the hearing.