IN THE	CIRCUIT	COURT	OF THE	STATE C	OF OREGON

FOR THE COUNTY OF CLACKAMAS

STATE OF OREGON,) Case No.
Plaintiff,)
VS.)) MOTION TO SET ASIDE CONVICTION AND) RECORD OF ARREST
,)
Defendant.) DA No. 301782

COMES NOW the State of Oregon, by and through Deputy District Attorney for Clackamas County moving this Court to enter an Order setting aside the defendant's conviction in Count 1: Driving While Suspended or Revoked, and the sealing official records of arrest for that offense. The defendant's conviction, based on inaccurate records from the Oregon Department of Motor Vehicles (DMV), is now known to be wrongful. Therefore, justice requires that the conviction be set aside and associated records sealed.

This motion and order are based upon the attached declaration of counsel. This traffic offense is not included in the list of offenses eligible to be set aside under ORS 137.225(7). However, the Court holds the inherent authority to take such action in the interests of justice. *See State v Kuznetsov*, 345 Or 479, 487 (2008) (en banc), ("[A]bsent some legislative or constitutional impediment, courts possess inherent authority to issue those rulings necessary to decide the issues before them.").

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2	JOHN D. WENTWORTH District Attorney
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4	By:
5	Deputy District Attorney
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7	DATED: August 18, 2023.
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Page 2 – MOTION TO SET ASIDE CONVICTION AND RECORDS OF ARREST

Clackamas County District Attorney 807 Main Street, Room 7, Oregon City, OR 97045 Phone: (503) 655-8431 Fax: (503) 650-8943

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2	IN THE CIRCUIT COURT OF THE STATE OF OREGON				
3	FOR THE COUNTY OF CLACKAMAS				
4	STATE OF OREGON, No.				
5	Plaintiff, ORDER TO SET ASIDE CONVICTION AND v. RECORD OF ARREST				
6					
7	, Defendant.				
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9	This matter having come before the Court upon the State's Motion to Set Aside Conviction				
10	and Records of Arrest, and the Court having reviewed the records and file, and now being fully				
11	advised, the court finds as follows:				
12	1. That the defendant was arrested and convicted as follows:				
13	 a. Defendant SID Number: b. Defendant FBI Number: 				
14	c. Arresting Agency Case Number:d. Date of Offense:				
15	 e. Original Arrest or Citation Charge: Driving While Suspended or Revoked f. Date of Conviction: 				
16	g. Conviction Charge: Driving While Suspended or Revoked				
17	2. That the underlying circumstances relating to errors by the Oregon Department of Motor Vehicles are found to warrant setting aside records of the defendant's arrest and				
18	conviction of the above offense.				
19	It is hereby ordered that the defendant's arrest and conviction of the above offense are				
20	set aside, and hereafter the defendant, for all purposes of the law, shall be deemed not to have				
21	been previously convicted or arrested of that offense.				
22					
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1	It is further ordered that the Clerk of the Court shall forward a certified copy of this Order
2	to all law enforcement agencies mentioned in the court's file, including the following:
3	a. b.
4	c. d.
5	It is further ordered that hereafter the record of conviction and arrest of the above
6	offense shall be sealed together with all other official records relating specifically to that offense,
7	including investigation reports of the involved law enforcement agencies concerning the criminal
8	episode.
9	It is further ordered that any financial judgment associated with this charge be vacated,
10	or fines/fees paid by the defendant be returned to the defendant.
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15	DATED 08/18/2023.
16	JOHN D. WENTWORTH
17	District Attorney
18	By: Deputy District Attorney
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23	Page 4 of 6 – MOTION TO DISMISS Clackamas County District Attorney 807 Main Street, Room 7, Oregon City, OR 97045 Phone: (503) 655-8431 Fax: (503) 650-8943

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3	STATE OF OREGON, No.
4	Plaintiff, DECLARATION IN SUPPORT OF MOTION
5	v. TO SET ASIDE CONVICTION AND RECORDS OF ARREST
6	, Defendant
7	STATE OF OREGON)
8) ss.
9	County of Clackamas)
10	I, , being first duly sworn, depose and say:
	That I am a Deputy District Attorney for Clackamas County, Oregon.
11	That a Motion is being filed in this matter to set aside the defendant's conviction in
12	Count #: Driving While Suspended or Revoked, and the sealing official records of arrest of that
13	offense. I believe the following statements to be true based on my review of the records and
14	evidence associated with this case:
15	1. The Oregon Department of Motor Vehicles (DMV) is responsible for suspending or
16	revoking individual driving privileges when required by law. The type, length, and
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18	severity of the suspension or revocation is dictated by statute. DMV maintains records
19	of these actions, which are disseminated to law enforcement and widely relied on
20	within the criminal justice system.
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1	2.	DMV errors in administering this system caused individuals to be wrongfully arrested		
2		and convicted of criminal driving while suspended or revoked in violation of ORS		
3		811.182.		
4	3.	DMV erroneously classified the defendant's license as criminally suspended or revoked		
5		at the time of the alleged offense. This factually incorrect record formed the basis for		
6		the defendant's arrest and conviction in Count #.		
7	4.	Therefore, the State moves to set aside the defendant's conviction in Count #1: Driving		
8		While Suspended or Revoked, and the seal official records of arrest for that offense.		
9				
10	I here	by declare that the above statement is true to the best of my knowledge and belief, and		
11	that I understand it is made for use as evidence in court and is subject to penalty for perjury.			
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