

**Petition for Relief From a Conviction or Sentence
By a Person in State Custody
(Petition Under 28 U.S.C. § 2254 for a Writ of Habeas Corpus)**

Instructions

1. To use this form, you must be a person who is currently serving a sentence under a judgment against you in a **state court**. You are asking for relief from the conviction or the sentence. This form is your petition for relief. Make sure the form is typed or neatly written.
2. You may also use this form to challenge a state judgment that imposed a sentence to be served in the future, but you must fill in the name of the state where the judgment was entered. If you want to challenge a **federal judgment** that imposed a sentence to be served in the future, you should file a motion under 28 U.S.C. § 2255 in the federal court that entered the judgment.
3. You must tell the truth and sign the form. If you make a false statement of material fact, you may be prosecuted for perjury.
4. Answer all the questions. You do not need to cite law. You may submit additional pages if necessary. If you do not fill out the form properly, you will be asked to submit additional or correct information. If you want to submit arguments, you must file a separate memorandum.
5. **You must pay a filing fee of \$5.** If the fee is paid, your petition will be filed. If you cannot pay the fee, you may ask to proceed *in forma pauperis* (as a poor person). To do that, you must submit a written motion (a form is available from the Clerk's Office). Also you must submit a certificate signed by an officer at the institution where you are confined showing the amount of money the institution is holding for you.
6. In this petition, you may challenge the judgment entered by only one court. If you want to challenge a judgment entered by a different court (either in the same state or in different states), you must file a separate petition.
7. When you have completed the form, send the original and one copy (for your records), along with the \$5 filing fee (or your motion to proceed *in forma pauperis*), to the Clerk of Court at this address:

**United States District Court
Southern District of Illinois
750 Missouri Avenue
East St. Louis, IL 62201**

8. **CAUTION: You must include in this petition all the grounds for relief from the conviction or sentence that you challenge. And you must state the facts that support each ground. If you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.**
9. **CAPITAL CASES: If you are under a sentence of death, you are entitled to the assistance of a lawyer and should request the appointment of counsel. A form for this motion is available from the Clerk of Court at the address above.**

UNITED STATES DISTRICT COURT

for the

Southern District of Illinois

)	Prisoner No:	
<i>Petitioner</i>)		
(the name under which you were convicted))		
v.)	Case Number:	
)		(To be supplied by Clerk's Office)
)		
<i>Respondent</i>)	Place of Confinement:	
(authorized person having custody of Petitioner))		

**PETITION UNDER 28 U.S.C. § 2254
FOR WRIT OF HABEAS CORPUS
BY A PERSON IN STATE CUSTODY**

1. (a) Name and location of court that entered the judgment of conviction you are challenging:
- (b) Criminal docket or case number:
2. (a) Date of the judgment of conviction:
- (b) Date of sentencing:
- (c) Date of trial or plea:
3. Length of sentence:
4. In this case, were you convicted on more than one count or of more than one crime? Yes No
5. Identify all crimes of which you were convicted and sentenced in this case:

6. (a) What was your plea?
- Not guilty Nolo contendere (no contest)
 Guilty Insanity plea
- (b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, to which counts did you plead guilty and to which did you plead not guilty?
- (c) If you went to trial, what kind of trial did you have? Jury only Judge only
7. Did you testify at a pretrial hearing, trial, or a post-trial hearing? Yes No
8. Did you appeal from the judgment of conviction? Yes No
9. If you did appeal, answer the following:
- (a) Name of court:
- (b) Docket or case number:
- (c) Result:
- (d) Date of result:
- (e) Citation to the case:
- (f) Grounds raised:

- (g) Did you seek further review by a higher state court? Yes
No

If YES, answer the following:

- (1) Name of court:
- (2) Docket or case number:
- (3) Result:
- (4) Date of result:
- (5) Citation to the case:
- (6) Grounds raised:

- (h) Did you file a petition for certiorari in the United States Supreme Court?
 Yes No

If YES, answer the following:

- (1) Docket or case number:
- (2) Result:
- (3) Date of result:
- (4) Citation to the case:

10. Other than the direct appeals listed above, have you previously filed any other post-conviction petitions, applications, or motions concerning this judgment of conviction in any state court?
 Yes No

11. If your answer to Question 10 was YES, give the following information:

- (a) (1) Name of court:
(2) Docket or case number:
(3) Date of filing:
(4) Nature of the proceeding:

(5) Grounds raised:

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

Yes No

(7) Result:

(8) Date of result:

(b) If you filed any second petition, application, or motion, give the same information:

(1) Name of court:

(2) Docket or case number:

(3) Date of filing:

(4) Nature of the proceeding:

(5) Grounds raised:

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

Yes No

(7) Result:

(8) Date of result:

(c) If you filed any third petition, application, or motion, give the same information:

(1) Name of court:

(2) Docket or case number:

(3) Date of filing:

(4) Nature of the proceeding:

(5) Grounds raised:

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

Yes

No

(7) Result:

(8) Date of result:

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: Yes

No

Result:

(2) Second petition: Yes

No

Result:

(3) Third petition: Yes No

Result:

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:

12. **TIMELINESS OF PETITION:** If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations contained in 28 U.S.C. § 2244(d) does not bar your petition.¹

13. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. **State only the facts supporting each ground – do not argue or cite law.**

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground raised in the petition. If you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

¹ The Antiterrorism and Effective Death Penalty Act of 1996 (“AEDPA”) contained in 28 U.S.C. § 2244(d) provides in part that: (1) A 1-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of -

- (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
 - (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such State action;
 - (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
 - (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.
- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

GROUND ONE:

(a) **Supporting facts:**

(b) If you **did not** exhaust your state remedies on Ground One, explain why:

(c) **Direct Appeal of Ground One:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why:

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes No

(2) If your answer to Question (d)(1) is YES, state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number:

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

- (3) Did you receive a hearing on your motion or petition? Yes No
- (4) Did you appeal from the denial of your motion or petition? Yes No
- (5) If your answer to Question (d)(4) is YES, did you raise this issue in the appeal?
 Yes No
- (6) If your answer to Question (d)(4) is YES, state:

Name and location of the court where the appeal was filed:

Docket or case number:

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

- (7) If your answer to Question (d)(4) or Question (d)(5) is NO, explain why you did not raise this issue:

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One:

GROUND TWO:

(a) **Supporting facts:**

(b) If you **did not** exhaust your state remedies on Ground Two, explain why:

(c) **Direct Appeal of Ground Two:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why:

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes No

(2) If your answer to Question (d)(1) is YES, state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number:

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

- (3) Did you receive a hearing on your motion or petition? Yes No
- (4) Did you appeal from the denial of your motion or petition? Yes No
- (5) If your answer to Question (d)(4) is YES, did you raise this issue in the appeal?
 Yes No
- (6) If your answer to Question (d)(4) is YES, state:

Name and location of the court where the appeal was filed:

Docket or case number:

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

- (7) If your answer to Question (d)(4) or Question (d)(5) is NO, explain why you did not raise this issue:

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two.

GROUND THREE:

(a) **Supporting facts:**

(b) If you **did not** exhaust your state remedies on Ground Three, explain why:

(c) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why:

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes No

(2) If your answer to Question (d)(1) is YES, state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number:

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

- (3) Did you receive a hearing on your motion or petition? Yes No
- (4) Did you appeal from the denial of your motion or petition? Yes No
- (5) If your answer to Question (d)(4) is YES, did you raise this issue in the appeal?
 Yes No
- (6) If your answer to Question (d)(4) is YES, state:

Name and location of the court where the appeal was filed:

Docket or case number:

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

- (7) If your answer to Question (d)(4) or Question (d)(5) is NO, explain why you did not raise this issue:

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three:

GROUND FOUR:

(a) **Supporting facts:**

(b) If you **did not** exhaust your state remedies on Ground Four, explain why:

(c) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why:

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes No

(2) If your answer to Question (d)(1) is YES, state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number:

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

- (3) Did you receive a hearing on your motion or petition? Yes No
- (4) Did you appeal from the denial of your motion or petition? Yes No
- (5) If your answer to Question (d)(4) is YES, did you raise this issue in the appeal?
 Yes No
- (6) If your answer to Question (d)(4) is YES, state:

Name and location of the court where the appeal was filed:

Docket or case number:

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

- (7) If your answer to Question (d)(4) or Question (d)(5) is NO, explain why you did not raise this issue:

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four:

14. Please answer these additional questions about the petition you are filing:

- (a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? Yes No

If your answer is NO, state which grounds have not been so presented and give your reason(s) for not presenting them:

- (b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

15. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? Yes No

If YES, state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available.

16. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? Yes No

If YES, state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

17. Give the name and address of each attorney who represented you in the following stages of the judgment you are challenging:
- (a) At preliminary hearing:
 - (b) At arraignment and plea:
 - (c) At trial:
 - (d) At sentencing:
 - (e) On appeal:
 - (f) In any post-conviction proceeding:
 - (g) On appeal from any ruling against you in a post-conviction proceeding:
18. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes No
- (a) If so, give name and location of court that imposed the other sentence you will serve in the future:
 - (b) Give the date the other sentence was imposed:
 - (c) Give the length of the other sentence:
 - (d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? Yes No

In light of the foregoing, Petitioner asks the Court to grant the following relief:

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this petition was placed in the prison mailing system on _____.
(month, date, year)

Signed on: _____
(date)

Signature of Petitioner

Street Address

Printed Name

City, State, Zip

Signature of Attorney (if any)

If the person signing is not Petitioner, state relationship to Petitioner and explain why Petitioner is not signing this motion.