### 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.
- 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 <u>federal</u> 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. Make sure the form is typed or neatly written.
- 4. You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
- 5. 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 a brief or arguments, you must submit them in a separate memorandum.
- 6. You must pay a 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 fill out an *in forma pauperis* motion and you must submit a certificate signed by an officer at the institution where you are confined showing the amount of money that the institution is holding for you. If your account exceeds \$150.00 you must pay the filing fee.
- 7. 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.
- 8. When you have completed the form, send the original and two copies to the Clerk of the United States District Court at this address:

Clerk, U.S. District Court for the District of Kansas 444 S.E. Quincy, Room 490 Topeka, KS 66683

- 9. <u>CAUTION:</u> You must include in this petition <u>all</u> 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.
- 10. <u>CAPITAL CASES:</u> If you are under a sentence of death, you are entitled to the assistance of counsel and should request the appointment of counsel.

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

United States District Court	District		
Name (under which you were convicted):			Docket or Case No.:
Place of Confinement:		Priso	ner No.:
Petitioner ( <u>include</u> the name under which you were convicted) V	1	t (autho	rized person having custody of petitioner)
The Attorney General of the State of			

### PETITION

1. (a) Name and location of court that entered the judgment of conviction you are challenging:

	(b) Crimin	al docket or case number (if	you know):			
2.	(a) Date of	f the judgment of conviction	(if you know):			
	(b) Date o	f sentencing:				
3.						
4.		e, were you convicted on mo			Yes	No 🗖
5.	5. Identify all crimes of which you were convicted and sentenced in this case:					
6.	(a) What w	vas your plea? (Check one)				
	(1)	Not guilty 📮	(3)	Nolo contendere (no contest	i) 🗖	
	(2)	Guilty 🗖	(4)	Insanity plea 🛛		

(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to?\_\_\_\_\_

(c) If you went to trial, what kind of trial did you have? (Check one)         Jury       Judge only         Did you testify at a pretrial hearing, trial, or a post-trial hearing?         Yes       No         Did you appeal from the judgment of conviction?         Yes       No         If you did appeal, answer the following:         (a) Name of court:	
Jury       Judge only         Did you testify at a pretrial hearing, trial, or a post-trial hearing?         Yes       No         Did you appeal from the judgment of conviction?         Yes       No         If you did appeal, answer the following:         (a) Name of court:         (b) Docket or case number (if you know):         (c) Result:         (d) Date of result (if you know):         (e) Citation to the case (if you know):         (f) Grounds raised:	
Jury       Judge only         Did you testify at a pretrial hearing, trial, or a post-trial hearing?         Yes       No         Did you appeal from the judgment of conviction?         Yes       No         If you did appeal, answer the following:         (a) Name of court:         (b) Docket or case number (if you know):         (c) Result:         (d) Date of result (if you know):         (e) Citation to the case (if you know):         (f) Grounds raised:         (g) Did you seek further review by a higher state court?       Yes         If yes, answer the following:         (1) Name of court:         (2) Docket or case number (if you know):         (3) Result:         (4) Date of result (if you know):         (5) Citation to the case (if you know):	
Jury       Judge only         Did you testify at a pretrial hearing, trial, or a post-trial hearing?         Yes       No         Did you appeal from the judgment of conviction?         Yes       No         If you did appeal, answer the following:         (a) Name of court:         (b) Docket or case number (if you know):         (c) Result:         (d) Date of result (if you know):         (e) Citation to the case (if you know):         (f) Grounds raised:         (g) Did you seek further review by a higher state court?       Yes         If yes, answer the following:         (1) Name of court:         (2) Docket or case number (if you know):         (3) Result:         (4) Date of result (if you know):         (5) Citation to the case (if you know):	
Jury       Judge only         Did you testify at a pretrial hearing, trial, or a post-trial hearing?         Yes       No         Did you appeal from the judgment of conviction?         Yes       No         If you did appeal, answer the following:         (a) Name of court:         (b) Docket or case number (if you know):         (c) Result:         (d) Date of result (if you know):         (e) Citation to the case (if you know):         (f) Grounds raised:	
Did you testify at a pretrial hearing, trial, or a post-trial hearing? Yes No Did you appeal from the judgment of conviction? Yes No No I If you did appeal, answer the following: (a) Name of court:	(c) If you went to trial, what kind of trial did you have? (Check one)
Yes No   Did you appeal from the judgment of conviction?   Yes No   If you did appeal, answer the following:   (a) Name of court:   (b) Docket or case number (if you know):   (c) Result:   (d) Date of result (if you know):   (e) Citation to the case (if you know):   (f) Grounds raised:   (g) Did you seek further review by a higher state court?   Yes No   (a) Name of court:   (b) Docket or case number (if you know):   (c) Result:   (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 (if you know):   (3) Result:   (4) Date of result (if you know):   (5) Citation to the case (if you know): (2) Citation to the case (if you know): (3) Citation to the case (if you know): (4) Date of result (if you know): (5) Citation to the case (if you know):	Jury 🗅 Judge only 🗅
Did you appeal from the judgment of conviction? Yes No Higher State Court: Yes No Higher State Court? Yes No Higher State Court? (a) Name of court: (b) Docket or case number (if you know): (c) Result: (d) Date of result (if you know): (e) Citation to the case (if you know): (f) Grounds raised: (g) Did you seek further review by a higher state court? Yes No C If yes, answer the following: (1) Name of court: (2) Docket or case number (if you know): (3) Result: (4) Date of result (if you know): (5) Citation to the case (if you know): (1) Name of court: (5) Citation to the case (if you know): (1) Citation to the case (if you know): (2) Citation to the case (if you know): (3) Citation to the case (if you know): (4) Date of result (if you know): (5) Citation to the case (if you know): (1) Citation to the case (if you know): (2) Citation to the case (if you know): (3) Citation to the case (if you know): (4) Citation to the case (if you know): (5) Citation to the case (if you know): (5	Did you testify at a pretrial hearing, trial, or a post-trial hearing?
Yes No   If you did appeal, answer the following:     (a) Name of court:           (b) Docket or case number (if you know):           (c) Result:              (d) Date of result (if you know):           (e) Citation to the case (if you know):              (f) Grounds raised:                              (g) Did you seek further review by a higher state court? Yes     No         (g) Did you seek further review by a higher state court? Yes     No      (g) Did you seek further review by a higher state court? Yes     No    (g) Did you seek further review by a higher state court? Yes     No   (g) Did you seek further review by a higher state court? Yes     No    (g) Docket or case number (if you know):      (g) Docket or case number (if you know):	Yes 🗖 No 🗖
If you did appeal, answer the following: (a) Name of court:	Did you appeal from the judgment of conviction?
(a) Name of court:	Yes 🗖 No 🗖
(b) Docket or case number (if you know):   (c) Result:      (d) Date of result (if you know): (e) Citation to the case (if you know): (f) Grounds raised: (f) Grounds raised: (g) Did you seek further review by a higher state court? Yes No (I) Name of court: (2) Docket or case number (if you know): (3) Result: (4) Date of result (if you know): (5) Citation to the case (if you know): (1) State of result (if you know): (2) Docket or case number (if you know): (3) Result: (4) Date of result (if you know): (5) Citation to the case (if you know):	If you did appeal, answer the following:
(c) Result:	(a) Name of court:
(d) Date of result (if you know):   (e) Citation to the case (if you know): (f) Grounds raised: (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 (if you know): (3) Result: (4) Date of result (if you know): (5) Citation to the case (if you know):	(b) Docket or case number (if you know):
(e) Citation to the case (if you know):	(c) Result:
(f) Grounds raised:	(d) Date of result (if you know):
(f) Grounds raised:	(e) Citation to the case (if you know):
If yes, answer the following: <ul> <li>(1) Name of court:</li></ul>	(f) Grounds raised:
If yes, answer the following: <ul> <li>(1) Name of court:</li></ul>	
If yes, answer the following: <ul> <li>(1) Name of court:</li></ul>	
If yes, answer the following: <ul> <li>(1) Name of court:</li></ul>	
If yes, answer the following: <ul> <li>(1) Name of court:</li></ul>	
If yes, answer the following: <ul> <li>(1) Name of court:</li></ul>	
<ul> <li>(1) Name of court:</li></ul>	(g) Did you seek further review by a higher state court? Yes $\Box$ No $\Box$
<ul> <li>(2) Docket or case number (if you know):</li></ul>	If yes, answer the following:
<ul> <li>(3) Result:</li></ul>	(1) Name of court:
<ul> <li>(4) Date of result (if you know):</li></ul>	(2) Docket or case number (if you know):
(5) Citation to the case (if you know):	(3) Result:
(5) Citation to the case (if you know):	
(5) Citation to the case (if you know):	(4) Date of result (if you know):

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	(h) ]	Did you file a petition for certiorari in the United States Supreme Court? Yes D No D
		If yes, answer the following:
		(1) Docket or case number (if you know):
		(2) Result:
		(3) Date of result (if you know):
		(4) Citation to the case (if you know):
10.	Oth	er than the direct appeals listed above, have you previously filed any other petitions, applications, or motions
	con	cerning this judgment of conviction in any state court?
		Yes 🗖 No 🗖
11.	If y	our answer to Question 10 was "Yes," give the following information:
	(a)	(1) Name of court:
		(2) Docket or case number (if you know):
		(3) Date of filing (if you know):
		(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 D No D
		(7) Result:
		(8) Date of result (if you know):
	(b)	If you filed any second petition, application, or motion, give the same information:
		(1) Name of court:
		(2) Docket or case number (if you know):
		(3) Date of filing (if you know):
		(4) Nature of the proceeding:
		(5) Grounds raised:

•	earing where evidence was given on your petition, application, or motion?
Yes 🗖 No 🕻	ے ا
(7) Result:	
(8) Date of result (if yo	ou know):
) If you filed any third pet	tition, application, or motion, give the same information:
(1) Name of court:	
(2) Docket or case num	nber (if you know):
(3) Date of filing (if yo	u know):
(4) Nature of the proce	eding:
(5) Grounds raised:	
	earing where evidence was given on your petition, application, or motion?
(6) Did you receive a h	
(6) Did you receive a h Yes 🔲 No 🕻	
Yes 🗋 No 🕻	
Yes 🗋 No 🕻 (7) Result:	
Yes D No (7) Result:(8) Date of result (if yo	
Yes D No (7) Result:(8) Date of result (if yo	Du know):
Yes D No (7) Result: (8) Date of result (if yo) ) Did you appeal to the hi	Du know):
Yes No (7) Result:(8) Date of result (if you) Did you appeal to the his polication, or motion? (1) First petition:	bu know):
Yes D No (7) Result: (7) Result: (8) Date of result (if yo ) Did you appeal to the hi oplication, or motion?	<pre>Du know):</pre>

12. 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 <u>facts</u> supporting each ground.

<u>CAUTION:</u> To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE:

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(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 <u>not</u> 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 D No D

(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 (if you know):

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 (if you know):

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 (Do not argue or cite law. Just state the specific facts that support your claim.):

(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 <u>not</u> 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 (if you know):

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 (if you know):

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 (Do not argue or cite law. Just state the specific facts that support your claim.):

(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 <u>not</u> 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 D No D
- (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 (if you know):

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 (if you know):

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 (Do not argue or cite law. Just state the specific facts that support your claim.):

(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 <u>not</u> 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 (if you know):

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 (if you know):

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," explaining the second secon	ain why v	vou dia noi	raise this issue:
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(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:
13.	<b>EXHAUSTION</b> - 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 $\Box$ No $\Box$
	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:

14. SUCCESSIVE APPLICATIONS - 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 I
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.

15.	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.				
16.	Give the name and address, if you know, 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:				
	(c)				
	(g) On appeal from any ruling against you in a post-conviction proceeding:				
	(g) on appear nom any ranng against you in a post conversion proceeding.				
17	Do you have any future sentence to serve after you complete the sentence for the judgment that you are				
17.	challenging? Yes $\Box$ No $\Box$				
	(a) If so, give name and location of court that imposed the other sentence you will serve in the future:				
	(a) It 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 $\Box$ No $\Box$				

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

\* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides in part that:

(1) A one-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.

Therefore, petitioner asks that the Court grant the following relief:

or any other relief to which petitioner may be entitled.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on \_\_\_\_\_\_

\_\_\_\_\_ (month, date, year).

Executed (signed) on \_\_\_\_\_ (date).

Signature of Petitioner

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition.

\* \* \* \* \*