

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
\_\_\_\_\_ DIVISION**

**PERSONS IN STATE CUSTODY APPLICATION FOR  
HABEAS CORPUS UNDER 28 U.S.C. SECTION 2254**

Name: \_\_\_\_\_  
\_\_\_\_\_

Prison Number: \_\_\_\_\_  
\_\_\_\_\_

Place of Confinement: \_\_\_\_\_  
\_\_\_\_\_

United States District Court \_\_\_\_\_ District of \_\_\_\_\_  
\_\_\_\_\_

Case No: \_\_\_\_\_ (to be supplied by Clerk of the U.S. District Court)

\_\_\_\_\_  
PETITIONER  
(Your Full Name)

v.

\_\_\_\_\_  
RESPONDENT  
(Name of Warden, Superintendent, Jailer, or authorized person having custody of petitioner.)

and

THE ATTORNEY GENERAL OF THE STATE OF \_\_\_\_\_  
\_\_\_\_\_ ADDITIONAL RESPONDENT.

(If petitioner is attacking a judgment which imposed a sentence to be served in the future, petitioner must fill in the name of the state where the judgment was entered. If petitioner has a sentence to be served in the future under a federal judgment which he wishes to attack, petitioner should file a motion under 28 U.S.C. § 2255, in the federal court which entered the judgment.)

**Instructions - Read Carefully**

- (1) This petition must be legibly handwritten or typewritten, and signed by the petitioner under penalty of perjury. Any false statement of a material fact may serve as a basis for prosecution and conviction for perjury. All questions must be answered concisely in the proper space on the form.
- (2) Additional pages are not permitted except with respect to the facts which you rely upon to support your grounds for relief. No citation of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.
- (3) Pursuant to 28 U.S.C. § 2244(d)(1) and (2), this petition must be filed within 1 year of the latest of: (1) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review; (2) 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; (3) 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 (4) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence. 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.
- (4) Pursuant to 28 U.S.C. § 2244(b), a second or successive habeas corpus application must be authorized as provided in 28 U.S.C. § 2244 by a panel of the United States Court of Appeals for the Eighth Circuit before a second or successive motion may be filed in the district court. Submit a copy of the appropriate authorization with these forms if this is a second or successive application.
- (5) Upon receipt of a fee of \$5 your petition will be filed if it is in proper order.
- (6) If you do not have the necessary filing fee, you may request permission to proceed in forma pauperis, in which event you must execute the declaration on the last page, setting forth information establishing your inability to prepay the fees and costs or give security therefor. If you wish to proceed in forma pauperis, you must have an authorized officer at the penal institution complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution.
- (7) Only judgments entered by one court may be challenged in a single petition. If you seek to challenge judgments entered by different courts either in the same state or in different states, you must file separate petitions as to each court.
- (8) Your attention is directed to the fact that you must include all grounds for relief and all facts supporting such grounds for relief in the petition you file seeking relief from any judgment of conviction.
- (9) When the petition is fully completed, the original and two copies must be mailed to the Clerk of the United States District Court whose address is \_\_\_\_\_  
\_\_\_\_\_
- (10) Petitions which do not conform to these instructions will be returned with a notation as to the deficiency.



**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
\_\_\_\_\_ DIVISION**

**P E T I T I O N**

1. Name and location of court which entered the judgment of conviction under attack: \_\_\_\_\_

\_\_\_\_\_

—

2. Date of judgment of conviction: \_\_\_\_\_

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3. Length of sentence: \_\_\_\_\_

—

4. Nature of offense involved (all counts): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

5. What was your plea? (Check one)

(a) Not guilty      \_\_\_

(b) Guilty         \_\_\_

(c) Nolo Contendere   \_\_\_

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:

\_\_\_\_\_

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6. Kind of trial: (Check one) (a) Jury \_\_\_ (b) Judge only \_\_\_

7. Did you testify at the trial? 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) Result: \_\_\_\_\_

(c) Date of result: \_\_\_\_\_

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal?

Yes [ ] No [ ]

11. If your answer to 10 was "yes," give the following information:

(a) (1) Name of court: \_\_\_\_\_

(2) Nature of proceeding: \_\_\_\_\_

(3) Grounds raised: \_\_\_\_\_

(4) Did you receive an evidentiary hearing on your petition, application, or motion?

Yes [ ] No [ ]

(5) Result: \_\_\_\_\_

(6) Date of result: \_\_\_\_\_

(b) As to any second petition, application, or motion give the same information:

(1) Name of court: \_\_\_\_\_

(2) Nature of proceeding: \_\_\_\_\_

Grounds raised: \_\_\_\_\_

(4) Did you receive an evidentiary hearing on your petition, application, or motion?

Yes [ ] No [ ]

(5) Result: \_\_\_\_\_

(6) Date of result: \_\_\_\_\_

(c) As to any third petition, application, or motion, give the same information:

(1) Name of court: \_\_\_\_\_

(2) Nature of proceeding: \_\_\_\_\_

(3) Grounds raised: \_\_\_\_\_

(4) Did you receive an evidentiary hearing on your petition, application, or motion?

Yes [ ] No [ ]

(5) Result: \_\_\_\_\_

(6) Date of result: \_\_\_\_\_

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

(1) First petition, etc. Yes [ ] No [ ]

(2) Second petition, etc. Yes [ ] No [ ]

(3) Third petition, etc. Yes [ ] No [ ]

(e) If you did not appeal from the adverse action on any petition, application, or motion, explain why you did not:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

12. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

**CAUTION:** In order to proceed in the federal court, you must ordinarily first exhaust your state court remedies as to each ground on which you request action by the federal court. If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed if you have exhausted your state court remedies with respect to them. However, you should raise in this petition all available grounds (relating to this conviction) on which you based your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by a plea of guilty which was induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search or seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one: \_\_\_\_\_

Supporting **FACTS** (tell your story briefly without citing cases or law):

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B. Ground two: \_\_\_\_\_

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Supporting **FACTS** (tell your story briefly without citing cases or law):

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C. Ground three: \_\_\_\_\_

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\_\_\_\_\_

Supporting **FACTS** (tell your story briefly without citing cases or law):

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\_\_\_\_\_

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\_\_\_\_\_

—

D. Ground four: \_\_\_\_\_

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\_\_\_\_\_

Supporting **FACTS** (tell your story briefly without citing cases or law):

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\_\_\_\_\_

—

\_\_\_\_\_

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13. If any of the grounds listed in 12A, B, C, and D were not previously presented in any other court, state or federal, state briefly what grounds were not so presented, and give your reasons for not presenting them:

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\_\_\_\_\_

—

\_\_\_\_\_

—

14. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack? Yes [ ] No [ ]

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(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 adverse ruling in a post-conviction proceeding.  
\_\_\_\_\_  
—

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at approximately the same time? Yes [ ] No [ ]

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack? Yes [ ] No [ ]

(a) If so, give name and location of court which imposed sentence to be served in the future:

\_\_\_\_\_  
—  
\_\_\_\_\_

(b) And give date and length of sentence to be served in the future:

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(c) Have you filed, or do you contemplate filing any petition attacking the judgment which imposed the sentence to be served in the future?

Yes  No

Wherefore, petitioner prays that the Court grant petitioner relief to which petitioner may be entitled in this proceeding.

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Signature of attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct.

Executed (signed) this \_\_\_ day of \_\_\_\_\_, 20\_\_.

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Signature of Petitioner

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI

\_\_\_\_\_)  
Petitioner )  
 )  
v. ) Case No. \_\_\_\_\_  
 )  
\_\_\_\_\_)  
Respondent(s) )

**AFFIDAVIT IN SUPPORT OF REQUEST TO  
PROCEED IN FORMA PAUPERIS -- PRISONER CASES**

I, \_\_\_\_\_  
declare (1) that I am the \_\_\_\_\_ in this case; (2) that in support of my motion to proceed without  
being required to **prepay** fees or costs, I state that because of my poverty, I am unable to pay the costs of this  
proceeding; and (3) that I believe I am entitled to relief.

1. Place of confinement of petitioner: \_\_\_\_\_  
\_\_\_\_\_
2. Crime(s) for which you have been convicted, date and sentence on each:  
\_\_\_\_\_  
\_\_\_\_\_
3. Are you presently employed? Yes \_\_\_ No \_\_\_
  - a. If the answer is "yes," state the amount of your salary or wages per month, and give the name and  
address of your employer.  
\_\_\_\_\_  
\_\_\_\_\_
  - b. If the answer is "no," state the date of last employment and the amount of the salary and wages  
per month which you received.  
\_\_\_\_\_  
\_\_\_\_\_

4. Have you received, within the past twelve (12) months, money from any of the following sources?
- |  | Yes | No  |
|--|-----|-----|
| Business, profession or form of self-employment? | ___ | ___ |
| Rent payments, interest or dividends?            | ___ | ___ |
| Pensions, annuities or life insurance payments?  | ___ | ___ |
| Gifts or inheritances?                           | ___ | ___ |
| Any other sources?                               | ___ | ___ |

If the answer to any of the above is "yes," describe the source and amount of money received from each during the past twelve (12) months.

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5. Do you own any cash, or do you have money in a checking or savings account? (Include any funds in prison accounts during the last six (6) months.) Yes \_\_\_ No \_\_\_

If the answer is "yes," state the total amount of cash owned, and the average monthly balance in all checking, savings or prison accounts during the last six (6) months.

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6. Do you own real estate, stocks, bonds, notes, automobiles, jewelry or other valuable property (excluding ordinary household furnishings and clothing)? Yes \_\_\_ No \_\_\_

If the answer is "yes," describe the property and state its approximate value.

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7. List the persons who are dependent upon you for support, state your relationship to those persons, and indicate how much you contribute toward their support.

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I DECLARE UNDER PENALTY OF PERJURY THAT THE ABOVE INFORMATION IS TRUE AND CORRECT. I UNDERSTAND THAT PROVIDING FALSE INFORMATION MAY SUBJECT ME TO CRIMINAL PROSECUTION, IMPOSITION OF A FINE, OR OTHER SANCTION THAT MAY ADVERSELY AFFECT MY ABILITY TO PURSUE THIS CASE OR OTHER CASES. I HAVE REVIEWED MY ANSWERS TO INSURE THEIR ACCURACY.

Executed (signed) this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(Signature of Petitioner)

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**Authorization for Release of Institutional Account Information and  
Payment of the Filing Fee**

I, \_\_\_\_\_  
(Name of Petitioner) (Register Number)

authorize the Clerk of Court to obtain information from the institution at which I presently reside about deposits into and withdrawals from my account at this institution during the past six months to determine my eligibility to proceed in forma pauperis, pursuant to the provisions of 28 U.S.C. § 1915.

\_\_\_\_\_  
(Signature of Petitioner)

\_\_\_\_\_  
(Date)