

9.2 PETITIONS FOR POST-CONVICTION RELIEF FILED BY PERSONS IN CUSTODY

(a) **Generally.** Absent exceptional circumstances, petitions for a writ of habeas corpus under 28 U.S.C. §§ 2241 or 2254 and motions under 28 U.S.C. § 2255 must be in writing, signed and verified. The Clerk must provide forms for such petitions and motions.

(b) **Information Required for a Petition under This Rule.** A petitioner under this Rule must supply the following information, if applicable and if known:

1. The petitioner's full name and prison number;
2. The name of the respondent, i.e., the petitioner's custodian;
3. The place where the petitioner is detained;
4. The name and location of the court which imposed the sentence;
5. The indictment number(s) upon which, and offense(s) for which, the sentence was imposed;
6. The date upon which the sentence was imposed and the terms of the sentence;
7. Whether the petitioner pled guilty, not guilty, or nolo contendere;
8. If the petitioner pled not guilty but was found guilty, whether the finding of guilty was made by a jury, or by a judge without a jury;
9. If the petitioner appealed his or her conviction or sentence, the name of each court to which the petitioner appealed, the results of such appeals, the date of such results, and the citations of any written opinions or orders entered on appeal;
10. The name and address of each attorney that represented the petitioner in connection with the petitioner's case at any time—including arraignment, plea, trial, sentencing, appeal, or filing of a post-conviction motion—and the proceedings at which each attorney represented the petitioner;
11. Whether the petitioner has previously filed any petition, motion, or application with respect to this conviction in any court, state or federal; and if so, the name and location of all such courts, the specific nature of the proceedings therein, the disposition thereof, the date of each such disposition, and the citations of any written opinions or orders entered therein;

12. In concise form: the grounds for which the petitioner bases the allegation that he or she is being held in custody unlawfully, or the allegation that the sentence which was imposed upon him or her is invalid; the facts that support each of these grounds; whether these grounds have been previously presented to any court, by way of any petition, motion or application; and if so, which grounds have been previously presented and in what proceedings.
 13. If the petitioner seeks leave to proceed in forma pauperis, an affidavit completed in accordance with Rule 83.7.
- (c) **Additional Information for Petitions under 28 U.S.C. §§ 2241 or 2254.** A petitioner seeking a writ of habeas corpus under 28 U.S.C. §§ 2241 or 2254 must also supply the reasons why the petitioner did not appeal his or her conviction or sentence, if the petitioner did not do so.
 - (d) **Additional Information for Motions under 28 U.S.C. § 2241.** A petitioner seeking a writ of habeas corpus under 28 U.S.C. § 2241 must also supply the reasons why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to test the legality of the petitioner's detention, if the petitioner has not previously filed a motion under 28 U.S.C. § 2255.
 - (e) **Additional Information for Motions under 28 U.S.C. § 2255.** A petitioner seeking relief under 28 U.S.C. § 2255 must also supply the name of the judge who imposed the sentence, if known.
 - (f) **Submission of Petitions and Motions to the Clerk.** A petitioner under this Rule must send an original and one copy of the completed petition to the Clerk. A petition addressed to an individual judge must be redirected to the Clerk for assignment.
 - (g) **Noncompliance with Form and Content Requirements.** If a petition under this Rule does not substantially comply with the above requirements of form and content, the Clerk must:
 1. Provisionally file the petition;
 2. Notify the petitioner of the defects; and
 3. Give the petitioner a reasonable amount of time to correct the defects and to resubmit the petition.
 - (h) **Suggestions.** Once assigned a petition, the Court must fix a time by which the respondent must file suggestions opposing the petition. Unless the Court grants an extension, the petitioner must file any reply suggestions within 14 days after the opposing suggestions are served. If the petitioner fails to timely file reply suggestions, and fails to show good cause for failing to do so, the Court must deem admitted all facts well pleaded in the opposing suggestions.
 - (i) **Duty of the U.S. Attorney.** If the United States of America is a party in a proceeding opened under this Rule, the United States Attorney or other attorney

representing the United States of America must obtain whatever order of court may be appropriate to secure the appearance of any person—including the petitioner or a material witness—who is in state or federal custody at all proceedings where such persons' appearances are necessary.

- (j) **Duty of Attorneys Representing the State of Missouri.** If the State of Missouri is a party in a proceeding opened under this Rule, the Attorney General of the State of Missouri or other attorney representing the State of Missouri must obtain whatever order of court may be appropriate and necessary to secure the appearance of any person—including the petitioner or a material witness—who is in state or federal custody, at all proceedings where such persons' appearances are necessary.