
Name

Prison Number

Place of Confinement

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

United States of America,

v.

_____, Movant
(Your name if Rule 35 motion)

_____, Petitioner
(Your name if habeas corpus petition)

v.

_____, Respondent(s)

(Name of warden, jailor or authorized person having custody of petitioner. [If attacking a state detainer, fill in the name of the court issuing the detainer and/or title of prosecuting officer for that jurisdiction.])

CASE NO. _____

(To be supplied by the Clerk)

(Check One)

MOTION TO REDUCE OR CORRECT SENTENCE PURSUANT TO RULE 35, FEDERAL RULES OF CRIMINAL PROCEDURE (Complete Questions 1-19 ONLY)

PETITION FOR A WRIT OF HABEAS CORPUS BY A PERSON IN FEDERAL CUSTODY (Complete Questions 1-19 ONLY)

PETITION FOR A WRIT OF HABEAS CORPUS BY A PERSON ATTACKING A STATE DETAINER (Complete Questions 20-28 ONLY)

1) Name and location of the court which entered the judgment of conviction or sentence under attack _____

2) Date judgment of conviction was entered or sentence imposed _____

- 3) Case number _____
- 4) Length and terms of sentence _____

- 5) Are you presently serving a sentence imposed for a conviction other than the conviction or sentence under attack?
Yes No
- 6) Name of the judge who imposed sentence under attack in this motion. _____
- 7) Nature of the offense or offenses involved (all counts) _____

- 8) What was your plea? (check one)
- a) Not Guilty b) Guilty c) Nolo Contendere
- 9) If you entered a plea of guilty pursuant to a plea bargain, state the terms and conditions of the agreement _____

- 10) If you were found guilty after a plea of not guilty, was the finding made by: (check one)
- a) A jury b) A judge without a jury
- 11) Did you testify at trial (if any)? Yes No
- 12) Did you appeal from the judgment of conviction? Yes No

13) If you did appeal, answer the following:

a) Name of the court _____

b) Result _____

c) Date of result _____

d) Citation or number of opinion or order (or furnish a copy of such opinion or order if available) _____

e) Issues raised _____

14) If you did not appeal, explain briefly why you did not _____

15) Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions pursuant to 28 U.S.C. §2255 or Rule 35, Fed.R.Crim.P. with respect to this judgment in any federal court? Yes No

16) If your answer to question 15 is "Yes", give the following information:

a) (1) Name of the court _____

(2) Nature of proceedings _____

(3) Issues raised _____

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes No

(5) Result _____

(6) Date of result _____

(7) Did you appeal the result to the federal appellate court having jurisdiction? Yes No . If you did appeal, give the name of the court where the appeal was filed, the result, the case number, citation and date of the court's decision (or attach a copy of the court's order or opinion). _____

(8) If you did not appeal, briefly explain why you did not _____

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

(1) Name of court _____

(2) Nature of proceedings _____

(3) Issues raised _____

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes No

(5) Result _____

(6) Date of result _____

(7) Did you appeal the result to the federal appellate court having jurisdiction? Yes No . If you did appeal, give the name of the court where the appeal was filed, the result, the case number, citation and date of the court's decision (or attach a copy of the court's order or opinion). _____

(8) If you did not appeal, briefly explain why you did not _____

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

(1) Name of court _____

(2) Nature of proceedings _____

(3) Issues raised _____

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes No

(5) Result _____

(6) Date of result _____

(7) Did you appeal the result to the federal appellate court having jurisdiction? Yes No . If you did appeal, give the name of the court where the appeal was filed, the result, the case number, citation and date of the court's decision (or attach a copy of the court's order or opinion). _____

(8) If you did not appeal, briefly explain why you did not _____

17) State *concisely* every ground on which you claim that you are being unlawfully held or that your sentence is illegal, imposed in an illegal manner or should be reduced. Summarize *briefly* the *facts* supporting each ground. If necessary, you may attach up to two extra pages stating additional grounds and supporting facts. You should raise in this proceeding all available grounds for relief.

A)(1) Ground One: _____

(2) Supporting Facts: (Without citing legal authority or argument state briefly the facts which support your claim)

B)(1) Ground Two: _____

(2) Supporting Facts:

C)(1) Ground Three: _____

(2) Supporting Facts:

D)(1) Ground Four: _____

(2) Supporting Facts:

18) Do you have any petition, application, motion or appeal now pending in any court, either state or federal, regarding the conviction under attack? Yes No . If "Yes", state the name of the court, case file number (if known), and the nature of the proceeding _____

19) a) State briefly why you believe that the remedy provided by 28 U.S.C. §2255 (Motion to Vacate Sentence) is inadequate or ineffective to test the legality of your detention _____

b) Did you seek administrative relief (if available)? Yes No . If your answer is "Yes", describe the procedure followed and the result. If your answer is "No", explain why you did not seek administrative relief _____

STATE DETAINERS

Complete the following questions only if you are attacking a detainer issued by a state court or authority based on an untried indictment, information or complaint.

20) The name and location of the court or other authority issuing the detainer _____

21) The name and title of the prosecuting officer for the jurisdiction of the court or authority issuing the detainer you now seek to attack _____

22) What is the nature of the offense or offenses involved? _____

23) Have you sent a written request for a final disposition of charges against you and notice of your place of imprisonment to the prosecuting officer and the appropriate state court of the prosecuting officer's jurisdiction? Yes No .
NOTE: Under the Interstate Agreement on Detainers, your written request for final disposition of pending charges must be accompanied by a certificate of the appropriate official having present custody which gives the following information:

- a) The term of commitment under which you are being held;
- b) The time already served;
- c) The time remaining to be served on the sentence;
- d) The amount of good time earned; and
- e) The time of parole eligibility and any decision of the state parole agency relating to you.

24) If your answer to question 23 is "Yes", when was such notice delivered? _____

25) Have you complied with the provisions of the Interstate Agreement on Detainers where applicable? Yes No .
(18 U.S.C. appendix.)

Colo. - C.R.S. 24-60-501 et seq.

Kans. - K.S.A. 22-4401 et seq.

N.M. - N.M.S.A. 41-20-19 et seq.

Utah - U.C.A. 77-65-4 et seq.

Wyo: - W.S. 7-408.9 et seq.

26) Have you filed any petition, application or motion with re-

spect to this detainer in any court of the charging state?
Yes No

27) If your answer to question 26 is "Yes", give the following information:

a) Name of the court and location _____

b) Nature of proceeding _____

c) Issues raised _____

d) Did you receive an evidentiary hearing on your petition, application or motion? Yes No

e) Result _____

f) Date of result _____

g) Did you appeal the result to the highest state court having jurisdiction? Yes No

h) If your answer to (g) is "Yes", give the name and location of the court where the appeal was filed, the result, the case number, citation and date of court's decision (or attach a copy of the court's opinion or order). _____

i) If your answer to (g) is "No", explain briefly why you did not _____

j) Have you filed more than one petition or other action in a state court or any type of action in a federal court with respect to this detainer? Yes No . If your answer is "Yes", give the information required by questions 27(a) through 27(i) for each action. Use the reverse side of this page for your answers.

28) State concisely why you believe the detainer is invalid. You should also state the relevant facts concerning your claim, including places and dates. You may attach up to two additional pages to complete your answer.

Wherefore, petitioner/movant prays that the court grant him such relief to which he may be entitled in this proceeding.

Signature of Attorney (if any)

Signature of Petitioner/
Movant

(Attorney's full address and
telephone number)

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares (or certifies, verifies, or states) under penalty of perjury that he is the petitioner/movant in the above action, that he has read the above pleading and that the information contained therein is true and correct. 28 U.S.C. § 1746. 18 U.S.C. § 1621.

Executed at _____ on _____, 198__.
(Location) (Date)

(Signature)