

STATE HABEAS CORPUS PACKAGE - 28 U.S.C. §2254

Enclosed in this package are:

1. Instructions and general information regarding the filing of a petitioner's writ of habeas corpus in federal court.
2. One set of Habeas Corpus forms.
3. One Affidavit of Indigency form.

INSTRUCTIONS

In order for the District Court to consider this petition for habeas corpus, you must fill it out in legible handwriting or on a typewriter. You must answer each question or fill in each blank clearly and simply. If you cannot finish an answer in the available space on the front of the page, you may continue the answer on another sheet of paper. If you continue an answer in this way, make sure you identify clearly which question the continuation applies to.

If you are filing a petition for writ of habeas corpus, you must declare that your petition is true. If you make any false statement of a material fact in the habeas corpus petition, you may be prosecuted for perjury.

Before submitting your petition for writ of habeas corpus to the court, you must do several things:

- A. Prepare an original and an identical copy of your petition for writ of habeas corpus and all attachments or exhibits for:
 1. THE COURT
 2. THE RESPONDENT
 3. YOURSELF

You need to retain one copy for your own reference.

DO NOT MAIL A COPY OF YOUR PETITION FOR WRIT OF HABEAS CORPUS DIRECTLY TO ANY RESPONDENT.

- B. Submit a check or money order in the amount of \$5.00 made payable to CLERK, U.S. DISTRICT COURT. If you cannot afford to prepay this fee, you must complete the affidavit of indigency form, declare it to be true, and submit the affidavit with your petition. A copy should be retained by you for your file. IT IS YOUR RESPONSIBILITY TO KEEP A COPY FOR YOUR OWN FILE OF EVERY DOCUMENT OR LETTER THAT YOU SEND TO THE COURT.
- C. When you finish following these instructions, mail your petition with the necessary copies, and your check or money order for \$5.00 or affidavit of indigency to:

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN
P.O. BOX 432
MADISON, WI 53701

PETITION UNDER 28 USC § 2254 FOR WRIT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

United States District Court		District _____
Name _____	Prisoner No. _____	Case No. _____
Place of Confinement _____		
Name of Petitioner (include name under which convicted) _____		Name of Respondent (authorized person having custody of petitioner) _____
v.		
The Attorney General of the State of: _____		
PETITION		
1. Name and location of court which entered the judgment of conviction under attack _____		

2. Date of judgment of conviction _____		
3. Length of sentence _____		
4. Nature of offense involved (all counts) _____		

5. What was your plea? (Check one)		
(a) Not guilty <input type="checkbox"/>		
(b) Guilty <input type="checkbox"/>		
(c) Nolo contendere <input type="checkbox"/>		
If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:		

6. If you pleaded not guilty, what kind of trial did you have? (Check one)		
(a) Jury <input type="checkbox"/>		
(b) Judge only <input type="checkbox"/>		
7. Did you testify at the trial?		
Yes <input type="checkbox"/> No <input type="checkbox"/>		
8. Did you appeal from the judgment of conviction?		
Yes <input type="checkbox"/> No <input type="checkbox"/>		

9. If you did appeal, answer the following:

(a) Name of court _____

(b) Result _____

(c) Date of result and citation, if known _____

(d) Grounds raised _____

(e) If you sought further review of the decision on appeal by a higher state court, please answer the following:

(1) Name of court _____

(2) Result _____

(3) Date of result and citation, if known _____

(4) Grounds raised _____

(f) If you filed a petition for certiorari in the United States Supreme Court, please answer the following with respect to each direct appeal:

(1) Name of court _____

(2) Result _____

(3) Date of result and citation, if known _____

(4) Grounds raised _____

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 _____

(3) Grounds raised _____

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

(5) Result _____

(6) Date of result _____

(c) 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

(d) If you did *not* appeal from the adverse action on any petition, application or motion, explain briefly 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 available 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 base 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 plea of guilty which was unlawfully 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 and 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 (state *briefly* without citing cases or law) _____

B. Ground two: _____

Supporting FACTS (state *briefly* without citing cases or law): _____

C. Ground three: _____

Supporting FACTS (state *briefly* without citing cases or law): _____

D. Ground four _____

Supporting FACTS (state *briefly* without citing cases or law): _____

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: _____

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 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) Give date and length of the above sentence: _____

(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 he may be entitled in this proceeding.

Signature of Attorney (if any)

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

(date)

Signature of Petitioner

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN**

(Full name of plaintiff(s))

VS

(Full name of defendant(s))

Case Number:

(Supplied by clerk)

**PETITION AND AFFIDAVIT FOR LEAVE TO
PROCEED IN FORMA PAUPERIS**

I, _____, plaintiff or petitioner, move the court for leave to proceed in forma pauperis in the above-named action. I declare under penalty of perjury that the following facts are true:

1. I am the party initiating this action and I believe I am entitled to redress.
2. I am unable to prepay the fees and costs of this proceeding, or to give security, because of my poverty.
3. I am (check one) single married separated divorced.
4. My responses to the following questions are true:
 - A. Are you presently employed?
 YES NO

1. If so, by whom and what is your pay? _____

2. If not, when were you last employed and what was your pay? _____

B. Have you received money from any other source in the last twelve months?
 YES NO

1. If yes, describe each source and state how much you received: _____

C. How much money do you have in private checking or savings accounts?_____

D. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (except for ordinary household furnishings and clothing)?
 YES NO

1. If yes, describe the property and its approximate value: _____

E. Do you have any debts or obligations?
 YES NO

1. If yes, list the amounts owed, to whom, and any current payments that you are making.

F. List your dependents, state your relationship to them and state how much you contribute to their support.

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

This ____ day of _____, 19 ____.

(Signature of plaintiff)

CERTIFICATE

(To be completed for prisoner only. This is a statement by the prison and not the prisoner.)

I hereby certify that the plaintiff or petitioner in this action has the sum of \$ _____ in his trust account at the correctional center where he is confined. I further certify that the plaintiff or petitioner has the following securities to his credit according to the records of this institution:

This ____ day of _____, 19 ____.

(authorized officer)

(institution)

(title)