

**INFORMATION AND INSTRUCTIONS  
FOR  
PETITION FOR WRIT OF HABEAS CORPUS  
PURSUANT TO 28 USC §2254 (BY PERSONS IN STATE CUSTODY)**

- 1) The accompanying form is for the filing of a petition for habeas corpus relief. For your petition to be considered by the court, it must be **typewritten or legibly handwritten**. All questions must be answered concisely in the appropriate spaces on the form. **The petition must have an original signature** and include a declaration under penalty of perjury. You are cautioned that any false statement of material fact may serve as basis for prosecution and conviction for perjury. Therefore, you should exercise care to make sure that all answers are true, correct and complete.
- 2) Extra pages are not permitted, except that up to two additional pages (on 8½ x 11 inch paper) may be attached if necessary to complete your answers to question 16. A copy of an appellate court opinion or order specifically concerning your conviction may also be attached. Citation of legal authority is not necessary and **no briefs or argument are to be submitted unless specifically requested by an order of the court**.
- 3) In your petition, you should raise all available grounds for relief. If you fail to do so, you may be barred from presenting additional grounds at a later date.
- 4) The following list of the most frequently raised grounds for relief in post-conviction proceedings is furnished for your information only. This list is not complete and you may raise any other grounds for relief you may have.
  - a) denial of effective assistance of counsel
  - b) denial of right of appeal
  - c) conviction obtained by guilty plea which was unlawfully induced or not made voluntarily with understanding of the nature of the charge or the consequences of the plea
  - d) conviction obtained by use of coerced confession
  - e) conviction obtained by use of evidence obtained pursuant to an unlawful search and seizure
  - f) conviction obtained by use of evidence obtained pursuant to an unlawful arrest

- g) conviction obtained by a violation of the privilege against self-incrimination
  - h) conviction obtained by the unconstitutional failure of the prosecution to disclose evidence favorable to the defendant
  - i) conviction obtained by a violation of the protection against double jeopardy
  - j) conviction obtained by the action of a grand or petit jury which was unconstitutionally selected and impaneled
  - k) conviction was obtained by the knowing use of perjured testimony
  - l) denial of compulsory process to obtain witnesses favorable to the defendant
  - m) sentence imposed is cruel and unusual punishment
  - n) conviction obtained by the use of evidence obtained pursuant to an unlawful lineup or identification procedure
  - o) denial of a speedy trial
  - p) conviction was obtained as a result of a plea of guilty or trial while the defendant was mentally incompetent
- 5) On a single petition you may challenge the judgments of only one court. If you seek to challenge several judgments entered by different courts, either in the same state or in different states, you must file separate petitions as to each court.
- 6) You are required to exhaust available state judicial remedies on all grounds before presenting them to the federal court.
- 7) When you have completed your petition, mail the original and two copies together with the required filing fee of \$5.00 to:
- Clerk, U.S. District Court  
District of Wyoming  
2120 Capitol Avenue, 2nd Floor  
Cheyenne, WY 82001
- 8) If you cannot afford to pay the fee, you may request permission to proceed *in forma pauperis* by filling out a motion for leave to proceed *in forma pauperis*

regarding your inability to pay the filing fee. If you file the motion, the business office of the institution at which you are incarcerated will be requested by the court to complete a financial certificate for the six-month period immediately preceding the filing of your complaint. If your prison account exceeds \$5.00, you will be required to pay the filing fee.

- 9) You must furnish an original and one copy of all motions, pleadings or other documents (except the original petition which requires an original and two copies) submitted for filing and consideration. In addition, you must furnish the respondents or their attorney with a copy of all documents submitted to the court. Each original document (except the petition) must include a certificate of service that states the date a copy of the document was mailed to the respondents or their attorney and the address to which it was mailed. Any pleading or other document received which fails to include a certificate of service may be stricken by the court.

The following is an example of a certificate of service:

I hereby certify that a copy of the foregoing [insert name of pleading or document] was mailed to [insert name of opposing party or party's attorney] at [insert address] on [insert date you mailed the document].

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Petitioner's signature

- 10) The United States Magistrate Judge, the Clerk of Court and deputy clerks are officers of the court and are prohibited from giving legal advice. Questions of this nature should be directed to an attorney.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Prisoner Number

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

\_\_\_\_\_  
Address

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WYOMING**

_____	)	
Full name	)	
	)	
Petitioner,	)	
	)	
vs.	)	CASE NO. _____
	)	(To be supplied by
_____	)	the Clerk)
Name of Warden, Superintendent,	)	
Jailor or authorized person having	)	
custody of petitioner	)	
	)	
and	)	
The Attorney General of the State of	)	
_____	)	
State where confined	)	
	)	
Respondents.	)	

**PETITION FOR A WRIT OF HABEAS CORPUS PURSUANT TO 28 USC 2254 BY A  
PERSON IN STATE CUSTODY**

**NOTE:** 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 of conviction was entered. If the petitioner has a sentence to be served in the *future* under a federal judgment which he wishes to attack, he should file a motion under 28 USC 2255, in the federal court which entered the judgment.

1) Name and location of the court which entered the judgment of conviction under attack:

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2) Date judgment of conviction was entered: \_\_\_\_\_

3) Case number: \_\_\_\_\_

4) Length and term(s) of sentence:

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5) Are you presently serving a sentence imposed for a conviction other than the conviction under attack in this petition?

\_\_\_\_\_ Yes      \_\_\_\_\_ No

6) Nature of the offense involved (all counts):

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7) What was your plea? (Check one)

\_\_\_\_\_ Not Guilty      \_\_\_\_\_ Guilty      \_\_\_\_\_ 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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8) If you entered a guilty plea pursuant to a plea bargain, state the terms and conditions of the agreement:

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9) Kind of trial: (Check one)  
 Jury trial  Court trial (no jury)

10) Did you testify at trial, if one was held?  
 Yes  No

11) Did you appeal from the judgment of conviction?  
 Yes  No

12) If you did appeal, state the name and location of the court where the appeal was filed, the case number, the result and the date of the court's decision (or attach a copy of the court's opinion or order):

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13) If you did not appeal, explain briefly why you did not:

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14) 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

15) If your answer to No. 14 was "Yes", give the following information:

a) First petition, application or motion:

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

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

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

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

5) If "Yes", give date of result and the result?  
\_\_\_\_\_

6) Did you appeal the result to the highest state court having jurisdiction?  
\_\_\_\_\_ Yes \_\_\_\_\_ No

If you did appeal, give the name of the court where the appeal was filed, the case number, the result and the date of the court's decision (or attach a copy of the court's opinion or order):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7) 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 proceeding: \_\_\_\_\_  
\_\_\_\_\_

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

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

\_\_\_\_\_ No \_\_\_\_\_ Yes

5) If "Yes", give date of result and the result?

\_\_\_\_\_

6) Did you appeal the result to the highest state court having jurisdiction?

\_\_\_\_\_ Yes \_\_\_\_\_ No

If you did appeal, give the name of the court where the appeal was filed, the case number, the result and the date of the court's decision (or attach a copy of the court's opinion or order):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

7) 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 proceeding: \_\_\_\_\_  
\_\_\_\_\_

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

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

5) If "Yes", give date of result and the result?  
\_\_\_\_\_

6) Did you appeal the result to the highest state court having jurisdiction?  
\_\_\_\_\_ Yes \_\_\_\_\_ No  
If you did appeal, give the name of the court where the appeal was filed, the case number, the result and the date of the court's decision (or attach a copy of the court's opinion or order):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7) If you did not appeal, briefly explain why you did not:  
\_\_\_\_\_  
\_\_\_\_\_

16) State *concisely* every ground on which you claim that you are being unlawfully held. Summarize *briefly* the *facts* supporting each ground. If necessary, you may attach up to two extra pages stating additional grounds or supporting facts. You should raise in this petition all available grounds for relief which relate to the conviction under attack.

NOTE: Before proceeding in a federal court, you are required to exhaust the remedies available to you in the state courts as to each ground on which you request action by the federal court.

A)(1) Ground One: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(2) Supporting Facts: (Without citing legal authority or argument, state briefly

the facts which support your claim.)

(3) Statement of Exhaustion of State Remedies as to Ground One:

**Direct Appeal**

(a) If you appealed from the judgment of conviction did you raise this issue?

\_\_\_\_\_ Yes    \_\_\_\_\_ No

(b) If you did not raise this issue in your direct appeal, explain briefly why you did not:

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**Post-Conviction Proceedings**

(c) Did you raise this issue by means of a post-conviction motion or petition for habeas corpus in a state trial court?

\_\_\_\_\_ Yes    \_\_\_\_\_ No

- (d) If your answer to (c) is “Yes”, state the type of motion or petition, the name and location of the court where the motion or petition was filed, the case number (if known), the result and the date of the result:

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- (e) Did you receive an evidentiary hearing on your motion or petition?  
\_\_\_\_\_ Yes \_\_\_\_\_ No

- (f) Did you appeal from the denial of your motion or petition?  
\_\_\_\_\_ Yes \_\_\_\_\_ No

- (g) If your answer to (f) is “Yes”, state whether this issue was raised in the appeal:  
\_\_\_\_\_ Yes \_\_\_\_\_ No

If you answered “Yes”, state the name and location of the court where the appeal was filed, the case number and the date of the court’s decision (or attach a copy of the court’s opinion or order):

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- (h) If your answer to questions (e), (f) or (g) is “No”, briefly explain:

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**Other Remedies**

- (i) Describe all other procedures (such as habeas corpus in the state supreme court, administrative remedies, etc) you have used to exhaust your state remedies as to the issue:

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B)(1) Ground Two: \_\_\_\_\_

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

(3) **Statement of Exhaustion of State Remedies as to Ground Two:**

**Direct Appeal**

(a) If you appealed from the judgment of conviction did you raise this issue?

\_\_\_\_\_ Yes \_\_\_\_\_ No

(b) If you did not raise this issue in your direct appeal, explain briefly why you did not:

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**Post-Conviction Proceedings**

(c) Did you raise this issue by means of a post-conviction motion or petition for habeas corpus in a state trial court?

\_\_\_\_\_ Yes \_\_\_\_\_ No

- (d) If your answer to (c) is "Yes", state the type of motion or petition, the name and location of the court where the motion or petition was filed, the case number (if known), the result and the date of the result:

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- (e) Did you receive an evidentiary hearing on your motion or petition?  
\_\_\_\_\_ Yes \_\_\_\_\_ No

- (f) Did you appeal from the denial of your motion or petition?  
\_\_\_\_\_ Yes \_\_\_\_\_ No

- (g) If your answer to (f) is "Yes", state whether this issue was raised in the appeal:  
\_\_\_\_\_ Yes \_\_\_\_\_ No

If you answered "Yes", state the name and location of the court where the appeal was filed, the case number and the date of the court's decision (or attach a copy of the court's opinion or order):

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- (h) If your answer to questions (e), (f) or (g) is "No", briefly explain:

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**Other Remedies**

(i) Describe all other procedures (such as habeas corpus in the state supreme court, administrative remedies, etc) you have used to exhaust your state remedies as to the issue:

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C)(1) Ground Three: \_\_\_\_\_

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

- (3) **Statement of Exhaustion of State Remedies as to Ground Three:**

**Direct Appeal**

- (a) If you appealed from the judgment of conviction did you raise this issue?

\_\_\_\_\_ Yes \_\_\_\_\_ No

- (b) If you did not raise this issue in your direct appeal, explain briefly why you did not:

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**Post-Conviction Proceedings**

- (c) Did you raise this issue by means of a post-conviction motion or petition for habeas corpus in a state trial court?

\_\_\_\_\_ Yes \_\_\_\_\_ No

- (d) If your answer to (c) is “Yes”, state the type of motion or petition, the name and location of the court where the motion or petition was filed, the case number (if known), the result and the date of the result:

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- (e) Did you receive an evidentiary hearing on your motion or petition?  
\_\_\_\_\_ Yes \_\_\_\_\_ No

- (f) Did you appeal from the denial of your motion or petition?  
\_\_\_\_\_ Yes \_\_\_\_\_ No

- (g) If your answer to (f) is “Yes”, state whether this issue was raised in the appeal:  
\_\_\_\_\_ Yes \_\_\_\_\_ No

If you answered “Yes”, state the name and location of the court where the appeal was filed, the case number and the date of the court’s decision (or attach a copy of the court’s opinion or order):

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- (h) If your answer to questions (e), (f) or (g) is “No”, briefly explain:

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**Other Remedies**

- (i) Describe all other procedures (such as habeas corpus in the state supreme court, administrative remedies, etc) you have used to exhaust your state remedies as to the issue:

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- 17) Have all grounds for relief raised in this petition been presented to the highest state court having jurisdiction?  
\_\_\_\_\_ Yes    \_\_\_\_\_ No

- 18) If you answered "No" to Question 17, state which grounds have not been so presented and briefly give your reason(s) for not presenting them:

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- 19) If any of the grounds listed in 16A, B and C, 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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20) Have you previously filed any type of petition, application or motion in a federal court regarding the conviction under attack?  
\_\_\_\_\_ Yes \_\_\_\_\_ No

If "Yes" state the location of the court, the type of proceedings, the issues raised, the result and the date of the court's decision for each petition, application or motion filed:

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21) 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:

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22) 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: \_\_\_\_\_

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b) At arraignment and plea: \_\_\_\_\_

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c) At trial: \_\_\_\_\_

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d) At sentencing: \_\_\_\_\_  
\_\_\_\_\_

e) On appeal: \_\_\_\_\_  
\_\_\_\_\_

f) In any post-conviction proceeding: \_\_\_\_\_  
\_\_\_\_\_

g) On appeal from any adverse ruling in a post-conviction proceeding:  
\_\_\_\_\_  
\_\_\_\_\_

23) 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

24) Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?  
\_\_\_\_\_ Yes \_\_\_\_\_ No

a) If "Yes", give the name and location of the court which imposed sentence to be served in the future:  
\_\_\_\_\_

b) If "Yes", give the date and length of service to be served in the future:  
\_\_\_\_\_

c) Have you filed, or will you file, any petition attacking the judgment which imposed the sentence to be served in the future?  
\_\_\_\_\_ Yes \_\_\_\_\_ No

WHEREFORE, petitioner prays that the court grant such relief as he/she may be

entitled to in this proceeding.

\_\_\_\_\_  
Signature of attorney (if any)

\_\_\_\_\_  
Signature of Petitioner

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attorney's address and phone  
number

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares (or certifies, verifies, or states) under penalty of perjury that he/she is the petitioner in the above action, that he/she 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 \_\_\_\_\_, 20\_\_\_\_.  
(Location) (Date)

\_\_\_\_\_  
Signature of Petitioner