

**Instructions for Filing a
Petition for a Writ of Habeas Corpus
in the U.S. District Court for the District of Oregon
By a Person in State Custody (28 U.S.C. § 2254)**

- (1) To use this form, you must be a person who is currently serving a sentence under a judgment against you in a state court. You are asking for relief from the conviction or the sentence.
- (2) You may also use this form to challenge a state judgment that imposed a sentence to be served in the future, but you must fill in the name of the state where the judgment was entered. If you want to challenge a federal judgment that imposed a sentence to be served in the future, you should file a motion under 28 U.S.C. § 2255 in the federal court that entered the judgment.
- (3) **Legibility and Pleading Requirements:** The petition must be typed or legibly handwritten on forms supplied by the court. You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury. Answer all the questions. You do not need to cite law. You may submit additional pages if necessary. If you do not fill out the form properly, you will be asked to submit additional or correct information. If you want to submit briefs or arguments, you must submit them in a separate memorandum which complies with the format requirements of the Local Rules of Court.
- (4) **Filing Fee:** Payment of a \$ 5.00 filing is required at the time of filing.
- (5) **In Forma Pauperis:** If you are not capable of paying the full filing fee, you may submit an application to proceed *in forma pauperis*. The application must include a certificate, signed by an officer at the institution where you are confined, showing the amount of money that the institution is holding for you in any trust account.
- (6) **Service Copy Requirements:** You must file the original and two copies of your petition with the Clerk of Court.
- (7) **Filing Instructions:** When you have completed the petition and assembled the service copies required by paragraph (6) above, mail the entire packet of materials to the office indicated below:

Office of the Clerk
1000 SW Third Avenue, Suite 740
Portland, Oregon 97204-2902
- (8) **Notification Regarding Address Changes:** It is important that you indicate your current address and registration number on your petition. If your address changes during the course of this proceeding, you must give written notification to the court and opposing counsel of your new address. The notification should include the case number and be entitled "Notice of Change of Address." Failure to keep the court advised of your current address may result in the dismissal of your action.
- (9) **CAUTION:** You must include in this petition all the grounds for relief from the conviction or sentence that you challenge. And you must state the facts that support each ground. If you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.
- (10) **Capital Cases:** If you are under a sentence of death, you are entitled to the assistance of counsel and should request the appointment of counsel.

Name

Prisoner Identification Number

Place of Confinement

Address

**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON**

PETITIONER,

v.

Civil Case No. -----

**PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2254**

(Name of Warden, Superintendent, Jailor,
Parole or Probation Supervisor, or authorized
person having custody of petitioner.)

RESPONDENT(S).

CONVICTION UNDER ATTACK

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

2. Criminal docket or case number (if you know): -----
3. Date of judgment of conviction: -----
4. Length of sentence: -----

5. Nature of offense involved (all counts):

6. What was your plea? (Check one)

Not Guilty

Guilty

Nolo Contendere

Insanity plea

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

7. If you pleaded not guilty, what kind of trial did you have? (Check One)

Jury

Judge Only

8. Did you testify at trial?

Yes

No

EXHAUSTION OF STATE REMEDIES

DIRECT APPEAL

9. Did you directly appeal from the judgment of conviction?

Yes

No

10. If you did appeal, answer the following:

a. Name of court: _____

b. Docket or case number (if you know): _____

c. Result: _____

d. Date of result and citation, if known: _____

e. Grounds raised:

11. Did you seek further review of the decision on appeal by a higher state court?

Yes

No

a. Name of court: _____

b. Docket or case number (if you know): _____

c. Result: _____

d. Date of result and citation, if known: _____

e. Grounds raised:

12. Did you file a petition for certiorari in the United States Supreme Court?

Yes

No

a. Result: _____

b. Docket or case number (if known): _____

c. Date of result and citation, if known: _____

d. Grounds raised:

13. If you did not directly appeal from the judgment of conviction, explain briefly why you did not:

POST-CONVICTION RELIEF

14. Did you file a petition for state post-conviction relief or state petition for writ of habeas corpus?

Yes

No

a. Name of court: _____

b. Docket or case number (if known): _____

c. Nature of proceeding: _____

d. Did you receive an evidentiary hearing?

Yes

No

e. Result: _____

f. Date of result and citation or case number, if known: _____

g. Grounds raised:

15. Did you appeal the result of your state post-conviction or state habeas corpus proceeding?

Yes

No

a. Name of court: _____

b. Docket or case number, if known: _____

c. Result: _____

d. Date of result and citation, if known: _____

e. Grounds raised:

16. Did you seek further review of the decision on appeal by a higher state court?

Yes

No

a. Name of court: _____

b. Docket or case number, if known: _____

c. Result: _____

d. Date of result and citation, if known: _____

e. Grounds raised:

17. If you did not appeal from the adverse decision in your state post-conviction or state habeas corpus proceeding, explain briefly why you did not:

GROUND FOR RELIEF

18. For this petition, state *concisely* every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Summarize *briefly* the *facts* supporting each ground. Attach additional pages if you have more than four grounds.

CAUTION: In order to proceed in the federal court, you must ordinarily first exhaust (use up) 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 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.

- 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):

OTHER INFORMATION

19. Please answer these additional questions about the petition you are filing:

a. Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction?

Yes

No

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them:

b. Is there any ground in this petition that has not been presented in some state or federal court? If so, identify which ground or grounds have not been presented, and state your reasons for not presenting them:

20. Do you have any petition or appeal now pending (filed and not decided yet) in any court, state or federal, for the judgment you are challenging here?

Yes

No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised:

21. 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:

24. **TIMELINESS OF PETITION:** If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition:

25. Date you are mailing (or handing to correctional officer for mailing) this petition to the court:

WHEREFORE, petitioner prays that the court will grant such relief to which he or she may be entitled in this federal petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 by a person in a state custody.

Signature of Attorney (if any)

DECLARATION UNDER PENALTY OF PERJURY

I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Date

Signature of Petitioner