

United States District Court / Eastern District of California

28 U.S.C. § 2241

FORMS AND INSTRUCTIONS

PETITION FOR WRIT OF HABEAS CORPUS
BY A PERSON IN FEDERAL CUSTODY
UNDER 28 U.S.C. § 2241, et seq.

CONTENTS OF THIS PACKET:

1. (form) "Petition for Writ of Habeas Corpus"
 2. (form) "Application to Proceed in Forma Pauperis" - with information sheet
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INSTRUCTIONS -- READ CAREFULLY

1. This petition must be an original (not a photocopy), legibly handwritten or typewritten, and signed by the petitioner under penalty of perjury. You must set forth **CONCISELY** (briefly and to the point) the answer to each question in the proper space on the form. Any false statement of a material fact may serve as the basis for prosecution and conviction for perjury.
2. If you have more than 4 grounds for relief, you may attach pages with the remaining grounds; however, the format of the attached pages must be the same as the petition and you must provide only a *brief* statement of facts. No citation to legal authority is required. A brief or memorandum in support of the petition may also be attached; however, the form petition must be complete in itself and may not simply refer to the attachments.
3. Only one sentence, conviction, or parole matter may be challenged in a single petition. If you challenge more than one, you must do so by separate petition.
4. The fee to file a petition for writ of habeas corpus is \$5.00, and you should submit the fee with your petition. If you do not have the necessary filing fee, you may request permission to proceed *in forma pauperis*, in which event you must complete and submit an Application to Proceed In Forma Pauperis, setting forth information establishing your inability to prepay the fees. You must have an authorized officer at the penal institution complete the certificate as to the amount of money on deposit to your credit in any account in the institution. You must also submit a certified copy of your trust account statement reflecting the prior 6 months of transactions.

5. When the petition is fully completed, the original and two copies must be mailed to the Clerk of the United States District Court. You must determine which court has venue (venue is the proper place -- court/district/division -- for the trial of a lawsuit). Depending on the nature of your case, venue may be determined by factors such as (1) location of the institution in which you are confined, (2) location of the trial court where judgment was entered, (3) location where events occurred, or (4) residence of the respondent(s). If you send your petition to a court lacking venue, your case may be dismissed, transferred to another court, or mailed back to you.
6. The Fresno Division of the United States District Court is comprised of the following counties: Fresno, Calaveras, Inyo, Kern, Kings, Madera, Mariposa, Merced, Stanislaus, Tulare, and Tuolumne, and the address is as follows:

Clerk, United States District Court
2500 Tulare Street, Room 1501
Fresno, California 93721

The Sacramento Division of the United States District Court is comprised of the following counties: Alpine, Amador, Butte, Colusa, El Dorado, Glenn, Lassen, Modoc, Mono, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Solano, Sutter, Tehama, Trinity, Yolo, and Yuba, and the address is as follows:

Clerk, United States District Court
501 "I" Street, Suite 4-200
Sacramento, California 95814

You should keep a copy of the petition for your records.

7. Once the petition is filed, the court will review it. You will be sent a copy of any order the court issues. Because of the large volume of cases filed by inmates pending in this court, the court WILL NOT ANSWER INQUIRIES concerning the status of your case.
8. You must keep the Clerk of the Court informed of any change of address. If you fail to do so, the Clerk cannot be responsible for your failure to receive Court orders. This could result in the dismissal of your case. (See Local Rules 11-110 and 83-182(d))
9. The Clerk of Court cannot provide copies of documents to litigants, except at a charge of fifty cents (\$.50) per page. This charge also applies to litigants proceeding *in forma pauperis*. Therefore, you must keep copies of all documents submitted to the court for your own records.

(Revised 02/10/2006)

Name

Prison Number

Address or Place of Confinement

Note: If represented by an attorney, write attorney's name, address & telephone number

United States District Court

EASTERN DISTRICT OF CALIFORNIA

Full Name (First, Middle, Last)

Petitioner,

vs.

Name of Warden

(or other authorized person having custody of petitioner)

Respondent.

CASE NO. _____

(to be supplied by the Clerk of the
United States District Court)

**PETITION FOR
WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241
BY A PERSON IN FEDERAL CUSTODY**

PLEASE COMPLETE THE FOLLOWING (check the appropriate number):

This petition concerns:

1. _____ a conviction
2. _____ a sentence
3. _____ jail or prison conditions
4. _____ prison discipline
5. _____ a parole problem
6. _____ other

CAUTION: If you are attacking a federal conviction, sentence or judgment, you must first file a direct appeal or motion under 28 U.S.C. § 2255 in the federal court which entered judgment.

- (1) Place of detention: _____
- (2) Name and location of court which imposed sentence: _____

- (3) Offense(s) and indictment number(s) (if known) for the sentence imposed:

- (4) The date the sentence was imposed and the terms of the sentence:

- (5) What was your plea (check one): Not guilty () Guilty () Nolo contendere ()
- (6) Kind of trial (check one): Jury () Judge only ()
- (7) Did you appeal from the judgment of conviction or the imposition of sentence: Yes () No ()
- (8) If you did appeal, answer the following for *each* appeal:

FIRST APPEAL:

Name of court: _____

Grounds raised (list each):

- 1) _____
- 2) _____

Result/Date of result: _____

SECOND APPEAL:

Name of court: _____

Grounds raised (list each):

- 1) _____
- 2) _____

Result/Date of result: _____

GROUND FOR THIS 28 U.S.C. § 2241 PETITION

- (9) State *CONCISELY* every ground on which you claim that your sentence is being executed in an illegal manner. Summarize *briefly* the *facts* supporting each ground

CAUTION: If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

→ **GROUND ONE** _____

Supporting *FACTS* for *GROUND ONE* (tell your story *BRIEFLY* without citing cases or law).

CAUTION: You must state *facts, not conclusions*, in support of your grounds. A rule of thumb to follow is -- who did exactly what to violate your rights at what time or place.

→ **GROUND TWO** _____

Supporting *FACTS* for *GROUND TWO* (tell your story *BRIEFLY* without citing cases or law).

ADMINISTRATIVE APPEALS

- (10) Have you presented the claims raised in Question #9 of this petition to prison officials in a prison administrations appeal?

Yes () No () If your answer is no, explain why not: _____

If your answer is yes, answer the following for *each* administrative appeal:

FIRST ADMINISTRATIVE APPEAL Level of appeal: _____

Grounds raised (list each):

1) _____

2) _____

Result/Date of result: _____

SECOND ADMINISTRATIVE APPEAL Level of appeal: _____

Grounds raised (list each):

1) _____

2) _____

Result/Date of result _____

THIRD ADMINISTRATIVE APPEAL Level of appeal: _____

Grounds raised (list each):

1) _____
2) _____
Result/Date of result: _____

FOURTH ADMINISTRATIVE APPEAL Level of appeal: _____

Grounds raised (list each):
1) _____
2) _____
Result/Date of result: _____

(11) Is the grievance process completed? Yes () No ()

PREVIOUS PETITIONS

(12) Have you filed previous petitions for habeas corpus under 28 U.S.C. § 2241 or 28 U.S.C. § 2255, or any other applications, petitions or motions with respect to the claims raised in Question #9 of this petition?

Yes () No ()

(13) If your answer to Question #12 was yes, give the following information for *each* previous petition:

FIRST PREVIOUS PETITION

Name of court: _____
Nature of proceeding: _____
Grounds raised (list each):
1) _____
2) _____
Result/Date of result: _____

SECOND PREVIOUS PETITION

Name of court: _____
Nature of proceeding: _____
Grounds raised (list each):
1) _____
2) _____
Result/Date of result: _____

(14) If the claims raised in Question #9 of this petition concern your conviction or sentence, explain why you are filing your petition pursuant to § 2241 instead of § 2255.

(15) Are you presently represented by counsel?

Yes () No ()

If so, provide your attorney's name, address, and telephone number:

(16) If you are seeking leave to proceed *in forma pauperis*, have you completed the application setting forth the required information?

Yes () No ()

Note: If your answer is no, you must send a \$5.00 filing fee to the court with your petition.

WHEREFORE, petitioner prays that the court grant petitioner relief to which he may be entitled in this proceeding.

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

(Date)

(Signature of Petitioner)

(Signature of Attorney, if any)