

1 **PETITION FOR A WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY**

2 Name \_\_\_\_\_  
                    (Last)                            (First)                            (Initial)

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

4 Institutional Address \_\_\_\_\_

5 \_\_\_\_\_

6 =====

7 **UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

8 \_\_\_\_\_ )  
(Enter the full name of plaintiff in this action.) )

9 vs. )

10 \_\_\_\_\_ )

11 \_\_\_\_\_ )

12 \_\_\_\_\_ )

13 \_\_\_\_\_ )

14 (Enter the full name of respondent(s) or jailor in this action.) )

15 \_\_\_\_\_ )

16 =====

Read Comments Carefully Before Filling In

17 When and Where to File

18 You should file in the Northern District if you were convicted and sentenced in one of these  
19 counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa,  
20 San Benito, Santa Clara, Santa Cruz, San Francisco, San Mateo and Sonoma. You should also file in  
21 this district if you are challenging the manner in which your sentence is being executed, such as loss of  
22 good time credits, and you are confined in one of these counties. Habeas L.R. 2254-3(a).

23 If you are challenging your conviction or sentence and you were not convicted and sentenced in  
24 one of the above-named fifteen counties, your petition will likely be transferred to the United States  
25 District Court for the district in which the state court that convicted and sentenced you is located. If  
26 you are challenging the execution of your sentence and you are not in prison in one of these counties,  
27 your petition will likely be transferred to the district court for the district that includes the institution  
28 where you are confined. Habeas L.R. 2254-3(b).

1 Who to Name as Respondent

2 You must name the person in whose actual custody you are. This usually means the Warden or  
3 jailor. Do not name the State of California, a city, a county or the superior court of the county in which  
4 you are imprisoned or by whom you were convicted and sentenced. These are not proper  
5 respondents.

6 If you are not presently in custody pursuant to the state judgment against which you seek relief  
7 but may be subject to such custody in the future (e.g., detainers), you must name the person in whose  
8 custody you are now and the Attorney General of the state in which the judgment you seek to attack  
9 was entered.

10 A. INFORMATION ABOUT YOUR CONVICTION AND SENTENCE

11 1. What sentence are you challenging in this petition?

12 (a) Name and location of court that imposed sentence (for example; Alameda  
13 County Superior Court, Oakland):

14 \_\_\_\_\_  
15 Court Location

16 (b) Case number, if known \_\_\_\_\_

17 (c) Date and terms of sentence \_\_\_\_\_

18 (d) Are you now in custody serving this term? (Custody means being in jail, on  
19 parole or probation, etc.) Yes \_\_\_\_\_ No \_\_\_\_\_

20 Where?

21 Name of Institution: \_\_\_\_\_

22 Address: \_\_\_\_\_

23 2. For what crime were you given this sentence? (If your petition challenges a sentence for  
24 more than one crime, list each crime separately using Penal Code numbers if known. If you are  
25 challenging more than one sentence, you should file a different petition for each sentence.)

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3. Did you have any of the following?

Arrestment: Yes \_\_\_\_\_ No \_\_\_\_\_  
Preliminary Hearing: Yes \_\_\_\_\_ No \_\_\_\_\_  
Motion to Suppress: Yes \_\_\_\_\_ No \_\_\_\_\_

4. How did you plead?

Guilty \_\_\_\_\_ Not Guilty \_\_\_\_\_ Nolo Contendere \_\_\_\_\_  
Any other plea (specify) \_\_\_\_\_

5. If you went to trial, what kind of trial did you have?

Jury \_\_\_\_\_ Judge alone \_\_\_\_\_ Judge alone on a transcript \_\_\_\_\_

6. Did you testify at your trial? Yes \_\_\_\_\_ No \_\_\_\_\_

7. Did you have an attorney at the following proceedings:

(a) Arrestment Yes \_\_\_\_\_ No \_\_\_\_\_  
(b) Preliminary hearing Yes \_\_\_\_\_ No \_\_\_\_\_  
(c) Time of plea Yes \_\_\_\_\_ No \_\_\_\_\_  
(d) Trial Yes \_\_\_\_\_ No \_\_\_\_\_  
(e) Sentencing Yes \_\_\_\_\_ No \_\_\_\_\_  
(f) Appeal Yes \_\_\_\_\_ No \_\_\_\_\_  
(g) Other post-conviction proceeding Yes \_\_\_\_\_ No \_\_\_\_\_

8. Did you appeal your conviction? Yes \_\_\_\_\_ No \_\_\_\_\_

(a) If you did, to what court(s) did you appeal?  
Court of Appeal Yes \_\_\_\_\_ No \_\_\_\_\_  
Year: \_\_\_\_\_ Result: \_\_\_\_\_  
Supreme Court of California Yes \_\_\_\_\_ No \_\_\_\_\_  
Year: \_\_\_\_\_ Result: \_\_\_\_\_  
Any other court Yes \_\_\_\_\_ No \_\_\_\_\_  
Year: \_\_\_\_\_ Result: \_\_\_\_\_

(b) If you appealed, were the grounds the same as those that you are raising in this

1 petition? Yes \_\_\_\_ No \_\_\_\_

2 (c) Was there an opinion? Yes \_\_\_\_ No \_\_\_\_

3 (d) Did you seek permission to file a late appeal under Rule 31(a)?

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

5 If you did, give the name of the court and the result:

6 \_\_\_\_\_  
7 \_\_\_\_\_

8 9. Other than appeals, have you previously filed any petitions, applications or motions with respect to  
9 this conviction in any court, state or federal? Yes \_\_\_\_ No \_\_\_\_

10 [Note: If you previously filed a petition for a writ of habeas corpus in federal court that  
11 challenged the same conviction you are challenging now and if that petition was denied or dismissed  
12 with prejudice, you must first file a motion in the United States Court of Appeals for the Ninth Circuit  
13 for an order authorizing the district court to consider this petition. You may not file a second or  
14 subsequent federal habeas petition without first obtaining such an order from the Ninth Circuit. 28  
15 U.S.C. §§ 2244(b).]

16 (a) If you sought relief in any proceeding other than an appeal, answer the following  
17 questions for each proceeding. Attach extra paper if you need more space.

18 I. Name of Court: \_\_\_\_\_

19 Type of Proceeding: \_\_\_\_\_

20 Grounds raised (Be brief but specific):

21 a. \_\_\_\_\_

22 b. \_\_\_\_\_

23 c. \_\_\_\_\_

24 d. \_\_\_\_\_

25 Result: \_\_\_\_\_ Date of Result: \_\_\_\_\_

26 II. Name of Court: \_\_\_\_\_

27 Type of Proceeding: \_\_\_\_\_

28 Grounds raised (Be brief but specific):

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a. \_\_\_\_\_  
b. \_\_\_\_\_  
c. \_\_\_\_\_  
d. \_\_\_\_\_  
Result: \_\_\_\_\_ Date of Result: \_\_\_\_\_

III. Name of Court: \_\_\_\_\_  
Type of Proceeding: \_\_\_\_\_  
Grounds raised (Be brief but specific):  
a. \_\_\_\_\_  
b. \_\_\_\_\_  
c. \_\_\_\_\_  
d. \_\_\_\_\_  
Result: \_\_\_\_\_ Date of Result: \_\_\_\_\_

IV. Name of Court: \_\_\_\_\_  
Type of Proceeding: \_\_\_\_\_  
Grounds raised (Be brief but specific):  
a. \_\_\_\_\_  
b. \_\_\_\_\_  
c. \_\_\_\_\_  
d. \_\_\_\_\_  
Result: \_\_\_\_\_ Date of Result: \_\_\_\_\_

(b) Is any petition, appeal or other post-conviction proceeding now pending in any court?  
Yes \_\_\_\_\_ No \_\_\_\_\_

Name and location of court: \_\_\_\_\_

**B. GROUNDS FOR RELIEF**

State briefly every reason that you believe you are being confined unlawfully. Give facts to support each claim. For example, what legal right or privilege were you denied? What happened? Who made the error? Avoid legal arguments with numerous case citations. Attach extra paper if you

1 need more space. Answer the same questions for each claim.

2 [Note: You must present ALL your claims in your first federal habeas petition. Subsequent  
3 petitions may be dismissed without review on the merits. 28 U.S.C. §§ 2244(b); McCleskey v. Zant,  
4 499 U.S. 467, 111 S. Ct. 1454, 113 L. Ed. 2d 517 (1991).]

5 Claim One: \_\_\_\_\_

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7 Supporting Facts: \_\_\_\_\_

8 \_\_\_\_\_

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11 Claim Two: \_\_\_\_\_

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13 Supporting Facts: \_\_\_\_\_

14 \_\_\_\_\_

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16 \_\_\_\_\_

17 Claim Three: \_\_\_\_\_

18 \_\_\_\_\_

19 Supporting Facts: \_\_\_\_\_

20 \_\_\_\_\_

21 \_\_\_\_\_

22 \_\_\_\_\_

23 If any of these grounds was not previously presented to any other court, state briefly which  
24 grounds were not presented and why:

25 \_\_\_\_\_

26 \_\_\_\_\_

27 \_\_\_\_\_

28 \_\_\_\_\_

1 List, by name and citation only, any cases that you think are close factually to yours so that they  
2 are an example of the error you believe occurred in your case. Do not discuss the holding or reasoning  
3 of these cases:

4 \_\_\_\_\_  
5 \_\_\_\_\_  
6 \_\_\_\_\_

7 Do you have an attorney for this petition? Yes\_\_\_\_\_ No\_\_\_\_\_

8 If you do, give the name and address of your attorney:

9 \_\_\_\_\_

10 WHEREFORE, petitioner prays that the Court grant petitioner relief to which s/he may be entitled in  
11 this proceeding. I verify under penalty of perjury that the foregoing is true and correct.

12  
13 Executed on \_\_\_\_\_

14 Date

Signature of Petitioner

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20 (Rev. 6/02)

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