

**PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2254
BY A PERSON IN STATE CUSTODY**

INSTRUCTIONS---READ CAREFULLY

1. **Use This Form** – If you are a person currently serving or will serve a sentence entered by a state court and you are asking for relief from the conviction or the sentence.

Do Not Use This Form – *IF YOU ARE CHALLENGING YOUR FEDERAL CONVICTION OR SENTENCE. INSTEAD, USE THE FORM ENTITLED “MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT SENTENCE BY A PERSON IN FEDERAL CUSTODY.” IF 28 U.S.C. § 2255 IS INADEQUATE OR INEFFECTIVE TO TEST THE LEGALITY OF YOUR DETENTION, USE THE FORM ENTITLED “APPLICATION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241 BY A PERSON IN CUSTODY.”

*IF YOU ARE A PRETRIAL DETAINEE CHALLENGING YOUR PRE-CONVICTION CUSTODY, A FEDERAL PRISONER CHALLENGING THE EXECUTION OF YOUR SENTENCE OR AN ACTION TAKEN BY THE BUREAU OF PRISONS, OR A PERSON IN CUSTODY CHALLENGING AN IMMIGRATION-RELATED ORDER (OTHER THAN A REMOVAL ORDER), OR IN OTHER SITUATIONS WHERE RELIEF IS NOT AVAILABLE UNDER 28 U.S.C. § 2254 OR 28 U.S.C. § 2255, OR IF 28 U.S.C. § 2255 IS INADEQUATE OR INEFFECTIVE TO TEST THE LEGALITY OF YOUR DETENTION, USE THE FORM ENTITLED “APPLICATION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241 BY A PERSON IN CUSTODY.”

2. **Readable** – You may either type or neatly handwrite the information on the following form. It must be readable.
3. **Signed Under Penalty of Perjury** – To submit your petition, it must be signed. Your signature indicates that the petition is signed "under penalty of perjury." This means that any false statement of a material fact presented in your petition may serve as a basis for prosecution and conviction for perjury. Your signature does **not** have to be witnessed by a notary public. The petition may also be signed by a person authorized to sign it for you, such as an attorney.
4. **Copies and Proper Court** – When the petition is fully completed, you must mail the **original** to: Clerk of Court, United States District Court for the Eastern District of Wisconsin, 517 East Wisconsin Avenue, Milwaukee, WI 53202.
5. **All Grounds** – You must include all grounds for relief in this petition and the facts supporting each ground for relief. If you fail to do so, you may be prevented from presenting additional grounds at a later date.
6. **Legal Citations and Arguments** – You must answer all applicable questions. However, you should not cite to legal authorities (i.e., case law or statutes) **on this form**. If you submit a supporting memorandum in addition to this form, it must not exceed fifteen (15) pages. Excess pages will not be considered.
7. **Fee** – You must either (a) pay the filing fee of \$5.00 or (b) if you do not have the \$5.00, you may request permission to proceed *in forma pauperis* (as a poor person), in which event you must complete and sign the petition and affidavit attached to this petition and have an authorized officer at the penal institution complete and sign the attached certificate. You must also have an authorized officer attach a printout of your prison trust account statement activity for the six months prior to the filing of your petition.
8. **Prisoner E-Filing Program** – Inmates confined at Dodge Correctional Institution, Green Bay Correctional Institution, Waupun Correctional Institution, Wisconsin Secure Program Facility, Columbia Correctional Institution, and Oshkosh Correctional Institution must submit all correspondence and case filings, including the habeas petition and any *in forma pauperis* petition, to institution staff for filing.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

_____, Petitioner,
Full Name (under which you were convicted)

Prisoner Number

Place of Confinement

vs.

_____, Respondent.
Authorized Person Having Custody of Petitioner

Docket No. _____
(to be supplied by Clerk)

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2254
BY A PERSON IN STATE CUSTODY

Caution: THIS IS NOT THE FORM TO BE USED, IF YOU CLAIM THAT YOUR FEDERAL SENTENCE OR CONVICTION IS UNLAWFUL, OR IF YOU ARE A PRETRIAL DETAINEE CHALLENGING YOUR PRECONVICTION CUSTODY, A FEDERAL PRISONER CHALLENGING THE EXECUTION OF YOUR SENTENCE OR AN ACTION TAKEN BY THE BUREAU OF PRISONS, OR A PERSON IN CUSTODY CHALLENGING AN IMMIGRATION-RELATED ORDER.

I. SUBJECT OF THIS PETITION

A. Name and location of the state court that entered the judgment of conviction which you are challenging

B. Criminal docket or case number _____

C. Date of the judgment of conviction _____

D. Date of sentencing _____

E. Length of sentence _____

F. In this case, were you convicted on more than one count or of more than one crime?

G Yes G No

G. Identify all crimes of which you were convicted and sentenced in this case

H. What was your plea? (Check one)

G Not guilty G Guilty G Insanity plea G Nolo contendere (no contest)

If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to?

I. If you went to trial, what kind of trial did you have? (Check one)

G Jury G Judge only

SUBJECT OF THIS PETITION - continued

J. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

G Yes G No

If yes, state the type(s) of hearing or proceeding

II. DIRECT STATE APPEAL OF CONVICTION

A. Did you appeal from the judgment of conviction?

G Yes G No

If yes, attach the decision(s) that resolved your appeal and answer the following questions:

1. Date of filing appeal _____

2. Grounds raised _____

3. Result _____

4. Date _____

B. Did you seek further review by the highest state court?

G Yes G No

If yes, attach the decision(s) that resolved your petition for review and answer the following questions:

1. Date of filing of petition for review _____

2. Grounds raised _____

3. Result _____

4. Date _____

DIRECT STATE APPEAL OF CONVICTION - continued

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

G Yes G No

If yes, attach the decision(s) that resolved your petition for certiorari and answer the following questions:

1. Date of filing petition for certiorari _____
2. Grounds raised _____

3. Result _____
4. Date _____

III. STATE POST-CONVICTION RELIEF OTHER THAN DIRECT APPEAL

A. Other than the appeals listed above in Section II, have you previously filed any other state petitions, applications, or motions concerning this state judgment of conviction?

G Yes G No

If yes, attach the decision(s) that resolved your application for state post-conviction relief and answer the following questions:

1. Name of court _____
2. Docket or case number _____
3. Date of filing _____
4. Type of petition, application, or motion filed _____
5. Grounds raised _____

6. Did you receive a hearing where evidence was given on your petition, application, or motion?
G Yes G No
7. Result _____

STATE POST-CONVICTION RELIEF OTHER THAN DIRECT APPEAL- continued

8. Date _____

9. Did you appeal to the highest state court having jurisdiction over the action taken on your first state petition, application, or motion?

G Yes G No

B. If you filed a second petition, application, or motion, attach the decision and answer the following questions:

1. Name of court _____

2. Docket or case number _____

3. Date of filing _____

4. Type of petition, application, or motion filed _____

5. Grounds raised _____

6. Did you receive a hearing where evidence was given on your petition, application, or motion?

G Yes G No

7. Result _____

8. Date _____

9. Did you appeal to the highest state court having jurisdiction over the action taken on your second state petition, application, or motion?

G Yes G No

C. If you filed a third petition, application, or motion, attach the decision and answer the following questions:

1. Name of court _____

2. Docket or case number _____

3. Date of filing _____

STATE POST-CONVICTION RELIEF OTHER THAN DIRECT APPEAL- continued

4. Type of petition, application or motion filed _____

5. Grounds raised _____

6. Did you receive a hearing where evidence was given on your petition, application, or motion?

G Yes G No

7. Result _____

8. Date _____

9. Did you appeal to the highest state court having jurisdiction over the action taken on your third state petition, application, or motion?

G Yes G No

IV. GROUND FOR RELIEF

For this petition, state every ground supporting your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. If you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court.

Ground One _____

Supporting FACTS (Briefly summarize the facts without citing cases or law.)

PRIOR FEDERAL CHALLENGES - continued

- 2. Docket or case number _____
- 3. Date of filing _____
- 4. Type of petition, application, or motion filed _____
- 5. Grounds raised _____

6. Did you receive a hearing where evidence was given on your petition, application, or motion?

G Yes G No

7. Result _____

8. Date _____

9. Did you appeal the action taken on your first federal petition, application, or motion to a federal court of appeals?

G Yes G No

If yes, attach the decision(s) that resolved your appeal and answer the following questions:

a. Name of court _____

b. Docket or case number _____

c. Date of filing _____

d. Type of petition, application, or motion filed _____

e. Grounds raised _____

PRIOR FEDERAL CHALLENGES - continued

f. Result _____

g. Date _____

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

G Yes G No

If yes, attach the decision(s) that resolved your petition for certiorari and answer the following questions:

1. Date of filing petition for certiorari _____

2. Grounds raised _____

3. Result _____

4. Date _____

VI. REPRESENTATION

A. Give the name and address of each attorney who represented you in the following:

1. At preliminary hearing _____

2. At arraignment and plea hearing _____

3. At trial _____

4. At sentencing _____

5. On direct appeal _____

REPRESENTATION - continued

6. In any state post-conviction proceeding _____

7. On appeal from any ruling against you in a state post-conviction proceeding _____

VII. REQUEST FOR RELIEF

State exactly what you want the court to do for you.

VIII. DECLARATION UNDER PENALTY OF PERJURY

I, the undersigned, hereby declare under penalty of perjury that the foregoing information is true and correct.

Signed this _____ day of _____, 20 _____.

Signature of Petitioner

(Signature of lawyer, if any)

If you are signing the petition and are not the petitioner, state your relationship to the petitioner and explain why the petitioner is not signing this petition.

IX. CERTIFICATE OF INMATE MAILING - Optional

If you deposit your petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 in your prison/institutional/jail mailing system and attach first-class postage pre-paid, and complete and sign this statement, you will establish the filing date as the date of deposit in that mailing system.

I, the undersigned, hereby declare under penalty of perjury that I placed this petition for a writ of habeas corpus under 28 U.S.C. § 2254 in the prison/institutional/jail mailing system with prepaid, first-class postage on _____
(month, day, year)

Signed this _____ day of _____, 20_____.

Signature of Petitioner