

**MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT  
SENTENCE BY A PERSON IN FEDERAL CUSTODY**

**Explanation and Instructions—Read Carefully**

(1) This motion must be legibly handwritten or typewritten, and signed by the movant under penalty of perjury. Any false statement of a material fact may serve as the basis for prosecution and conviction for perjury. All questions must be answered concisely in the proper space on the form.

(2) Additional pages are not permitted except with respect to the facts which you rely upon to support your grounds for relief. No citation of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate motion.

(3) No fee is required for filing this motion.

(4) If you do not have the necessary funds for transcripts, counsel, appeal, and other costs connected with a motion of this type, you may request permission to proceed *in forma pauperis*. If you desire to proceed *in forma pauperis*, you will need to file an application to proceed without prepayment of filing fees, setting forth information establishing your inability to pay. If you wish to proceed *in forma pauperis*, you must have an authorized officer at the penal institution complete the certificate as to the amount of money and securities on deposit to your institutional account.

(5) Only judgments entered by one court may be challenged in a single motion. If you seek to challenge judgments entered by different judges or divisions either in the same district or in different districts, you must file separate motions as to each such judgment.

(6) Your attention is directed to the fact that you must include all grounds for relief and all facts supporting such grounds for relief in the motion you file seeking relief from any judgment of conviction.

(7) When the motion is fully completed, the original and at least two copies must be mailed to the Clerk of the United States District Court.

(8) If your motion does not conform to these instructions, a deficiency notice will be issued to you.

(9) Review the attached amended notice of electronic availability of civil case file information. It is your responsibility to exclude and/or redact sensitive information identified in documents that you file.



9. If you did appeal, answer the following:

(a) Name of court to which you appealed: \_\_\_\_\_

(b) Date the appeal was filed: \_\_\_\_\_

(c) Result: \_\_\_\_\_

(d) Date of result and citation, if known: \_\_\_\_\_

(e) Grounds raised: \_\_\_\_\_

(f) If you sought further review of this decision by petitioning for certiorari in the United States Supreme Court, please answer the following with respect to your direct appeal:

(1) The date the petition for certiorari was filed: \_\_\_\_\_

(2) Result: \_\_\_\_\_

(3) Date of result and citation, if known: \_\_\_\_\_

(4) Grounds raised: \_\_\_\_\_

10. 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* federal court?

Yes  No

11. If your answer to 10 was "yes," give the following information (Use separate section for each petition/application/motion filed). You may attach additional pages if you filed more than two petitions/applications/motions:

First petition/application/motion

(a) Name of court: \_\_\_\_\_

(b) Date the first petition, application, or motion was filed: \_\_\_\_\_

(c) Nature of proceeding: \_\_\_\_\_

(d) Grounds raised: \_\_\_\_\_

(e) Did you receive an evidentiary hearing on your petition, application, or motion? Yes  No

(f) Result: \_\_\_\_\_

(g) Date of Result: \_\_\_\_\_

(h) Did you appeal to an appellate federal court having jurisdiction, the result of action taken on any petition, application, or motion?

Yes  No

(i) If your answer to (h) was "yes,"

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

(2) The date the appeal was filed: \_\_\_\_\_

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

(4) Result: \_\_\_\_\_

(5) Date of Result: \_\_\_\_\_

(j) If your answer to (h) was "no," explain briefly why you did not file an appeal: \_\_\_\_\_  
\_\_\_\_\_

(k) If you sought further review of this decision by petitioning for certiorari in the United States Supreme Court, please answer the following with respect to your first petition, application, or motion:

(1) The date the petition for certiorari was filed: \_\_\_\_\_

(2) Result: \_\_\_\_\_

(3) Date of result and citation, if known: \_\_\_\_\_

(4) Grounds raised: \_\_\_\_\_  
\_\_\_\_\_

Second petition/application/motion

(a) Name of court: \_\_\_\_\_

(b) Date the second petition, application, or motion was filed: \_\_\_\_\_

(c) Nature of proceeding: \_\_\_\_\_

(d) Grounds raised: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(e) Did you receive an evidentiary hearing on your petition, application, or motion? Yes  No

(f) Result: \_\_\_\_\_

(g) Date of Result: \_\_\_\_\_

(h) Did you appeal to an appellate federal court having jurisdiction, the result of action taken on any petition, application, or motion?

Yes  No

(i) If your answer to (h) was "yes,"

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

(2) Date the appeal was filed: \_\_\_\_\_

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

(4) Result: \_\_\_\_\_

(5) Date of Result: \_\_\_\_\_

(j) If your answer to (h) was "no," explain briefly why you did not file an appeal: \_\_\_\_\_  
\_\_\_\_\_

(k) If you sought further review of this decision by petitioning for certiorari in the United States Supreme Court, please answer the following with respect to your second petition, application, or motion:

(1) The date the petition for certiorari was filed: \_\_\_\_\_

(2) Result: \_\_\_\_\_

(3) Date of result and citation, if known: \_\_\_\_\_

(4) Grounds raised: \_\_\_\_\_  
\_\_\_\_\_

12. 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* that support each ground. If necessary, you may attach pages stating additional grounds and *facts* supporting same.

**CAUTION:** If you fail to set forth all grounds in this motion, 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 these types of proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you have other than those listed. However, *you should raise in this motion all available grounds* (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily or 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): \_\_\_\_\_

13. If any of the grounds listed in 12A, B, C or D were not previously presented, state briefly what grounds were not so presented and give your reasons for not presenting them: \_\_\_\_\_

14. Do you have any petition(s), application(s), motion(s), or appeal(s) now pending in any court as to the judgment under attack?  
Yes  No

15. 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: \_\_\_\_\_

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

16. 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

17. Do you have any future sentences to serve after you complete the sentence imposed by the judgment under attack?  
Yes  No

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

(b) Give date and length of the above sentence: \_\_\_\_\_

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future? Yes  No

Wherefore, Movant prays that the Court grant him/her all relief to which he/she may be entitled in this proceeding.

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

I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Movant

I hereby certify that this motion was delivered to the prison mail system for mailing on \_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Movant

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN AND WESTERN DISTRICT OF KENTUCKY

AMENDED  
NOTICE OF ELECTRONIC AVAILABILITY OF CIVIL CASE FILE INFORMATION

(AMENDED TO COMPLY WITH THE AUGUST 2, 2004 AMENDMENTS  
TO THE E-GOVERNMENT ACT OF 2002)

The United States District Courts for the Eastern and Western Districts of Kentucky are making the content of documents filed in electronic form or converted from a paper filing to electronic form available on the court's Internet web site via WebPACER. Any subscriber to WebPACER will be able to read, download, store and print the full content of electronically filed or electronically converted documents. The clerk's office will not make available over the Internet electronic documents that have been sealed or otherwise restricted by court order.<sup>1</sup>

You should not include sensitive information in any document filed with the court unless such inclusion is necessary and relevant to the case. Any personal information not otherwise protected will be made available over the Internet via WebPACER. If sensitive information must be included, the following personal identifiers must be partially redacted from the document, whether it is filed on paper or electronically:

- A. **SOCIAL SECURITY NUMBERS.** If an individual's social security number must be included in a document, only the last four digits of that number should be used.
- B. **NAMES OF MINOR CHILDREN.** If the involvement of a minor child must be mentioned, only the initials of that child should be used.
- C. **DATES OF BIRTH.** If an individual's date of birth must be included in a document, only the year should be used.
- D. **FINANCIAL ACCOUNT NUMBERS.** If financial account numbers are relevant, only the last four digits of these numbers should be used.

In compliance with the E-Government Act of 2002, and as amended August 2, 2004, a party filing a document containing any of the personal data identifiers specified above may:

- (a) file an unredacted copy under seal. This document shall be retained by the court as part of the record. A redacted copy for the public record must be filed along with the unredacted document under seal. OR

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<sup>1</sup>Reference Electronic Case Filing Administrative Policies and Procedures for the Eastern and Western Districts of Kentucky

- (b) file a reference list under seal. The reference list shall contain the complete personal data identifier(s) and the redacted identifier(s) used in its (their) place in the filing. All references in the case to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete identifier. The reference list must be filed under seal, and may be amended as of right. It shall be retained by the court as part of the record.

The Court recognizes that parties may need to include in the record a document containing information such as any personal identifying number such as a driver's license number; medical records, treatment and diagnosis; employment history; individual financial information; and proprietary or trade secret information. Technical and administrative procedures to effectuate the filing of these documents along with other important information can be found in the Court's Electronic Case Filing Administrative Policies and Procedures (Reference Number 15.2) and the User Manual. The Court's Electronic Case Filing Administrative Policies and Procedures and the Court's User Manuals are available through the Courts' web sites at [www.kywd.uscourts.gov](http://www.kywd.uscourts.gov) and [www.kyed.uscourts.gov](http://www.kyed.uscourts.gov), or can be obtained from any Division of the Court.

Counsel is strongly urged to share this notice with all clients so that an informed decision about the inclusion of certain materials may be made. **It is the sole responsibility of counsel and the parties to be sure that all pleadings and other papers comply with the rules of this court requiring redaction of personal data identifiers. The clerk will not review each document for redaction.**