

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

(If petitioner wishes to attack a sentence under a federal judgment, he should file a motion under 28 U.S.C. § 2255 in the federal court which entered the judgment.)

**Explanation and Instructions—Read Carefully**

- (1) The petition must: (1) specify all the grounds for relief available to the petitioner; (2) state the facts supporting each ground; (3) state the relief requested; (4) be printed, typewritten, or legibly handwritten; and (5) be signed under penalty of perjury by the petitioner or by a person authorized to sign it for the petitioner.
- (2) Additional pages are not permitted except with respect to the facts upon which you rely to support your grounds for relief. Do not make legal arguments or cite cases or statutes. However, identify the constitutional right(s) you allege was/were violated. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.
- (3) You must submit a \$5 filing fee when you file your petition. If you cannot afford the filing fee, you may file an application to proceed without prepayment of filing fees, setting forth information establishing your inability to pay. 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.
- (4) Only judgments entered by one court may be challenged in a single petition. If you seek to challenge judgments entered by different courts in the same state or different states, you must file separate petitions as to each judgment.
- (5) If you are currently in custody under a state-court judgment, the petition must name as respondent the state officer who has custody. If you are not yet in custody -- but may be subject to future custody -- under the state-court judgment being contested, the petition must name as respondents both the officer who has current custody and the attorney general of the state where the judgment was entered.
- (6) To file the petition with the Court, mail the fully completed original to the Clerk of the United States District Court. The Clerk's Office mailing addresses are:

LOUISVILLE	PADUCAH
601 W. Broadway, Rm 106 Gene Snyder United States Courthouse Louisville, KY 40202	501 Broadway, Suite 127 Paducah, KY 42001-6801
BOWLING GREEN	OWENSBORO
241 East Main Street, Suite 120 Bowling Green, KY 42101-2175	423 Frederica Street, Suite 126 Owensboro, KY 42301-3013

(7) If your petition does not conform to these instructions, a deficiency notice will be issued to you. The deficiency notice will inform you of the amount of time to correct your petition. Failure to respond could ultimately lead to dismissal of your petition.

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

- In the case of social security or account numbers, only the last four digits should be used. For example, if the number is 5555-555-5555, you should refer to it as “xxxx-xxx-5555” in your filing.
- In the case of a date of birth, only the year should be used. For example, if the birth date is 01-01-1940, all you should include in your filing is “xx-xx-1940.”
- For a minor child, use only his/her first and last initials. For example, if the minor’s name is Mary Ann Doe, you should refer only to the minor as “M.D.” in your filing.

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

<b>United States District Court</b>		District:	
Name (under which you were convicted):		Docket or Case No.:	
Place of Confinement :		Prisoner No.:	
Petitioner (include the name under which you were convicted)		Respondent (authorized person having custody of petitioner)	
v.			
The Attorney General of the State of			

**PETITION**

1. (a) Name and location of court that entered the judgment of conviction you are challenging:  
  
(b) Criminal docket or case number (if you know):
2. (a) Date of the judgment of conviction (if you know):  
(b) Date of sentencing:
3. Length of sentence:
4. In this case, were you convicted on more than one count or of more than one crime?  Yes  No
5. Identify all crimes of which you were convicted and sentenced in this case:
  
6. (a) What was your plea? (Check one)  
 (1) Not guilty  (3) Nolo contendere (no contest)  
 (2) Guilty  (4) Insanity plea

(b) 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?

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

Jury     Judge only

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

Yes     No

8. Did you appeal from the judgment of conviction?

Yes     No

9. 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 (if you know):

(e) Citation to the case (if you know):

(f) Grounds raised:

(g) Did you seek further review by a higher state court?     Yes     No

If yes, answer the following:

(1) Name of court:

(2) Docket or case number (if you know):

(3) Result:

(4) Date of result (if you know):

(5) Citation to the case (if you know):

(6) Grounds raised:

(h) Did you file a petition for certiorari in the United States Supreme Court?  Yes  No

If yes, answer the following:

(1) Docket or case number (if you know):

(2) Result:

(3) Date of result (if you know):

(4) Citation to the case (if you know):

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court?  Yes  No

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court:

(2) Docket or case number (if you know):

(3) Date of filing (if you know):

(4) Nature of the proceeding:

(5) Grounds raised:

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

Yes  No

(7) Result:

(8) Date of result (if you know):

(b) If you filed any second petition, application, or motion, give the same information:

- (1) Name of court:
- (2) Docket or case number (if you know):
- (3) Date of filing (if you know):
- (4) Nature of the proceeding:
- (5) Grounds raised:

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

Yes     No

(7) Result:

(8) Date of result (if you know):

(c) If you filed any third petition, application, or motion, give the same information:

- (1) Name of court:
- (2) Docket or case number (if you know):
- (3) Date of filing (if you know):
- (4) Nature of the proceeding:
- (5) Grounds raised:

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

Yes     No

(7) Result:

(8) Date of result (if you know):

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition:     Yes     No

(2) Second petition:  Yes     No

(3) Third petition:     Yes     No

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:

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

**GROUND ONE:**

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) If you did not exhaust your state remedies on Ground One, explain why:

(c) **Direct Appeal of Ground One:**

(1) If you appealed from the judgment of conviction, did you raise this issue?  Yes  No

(2) If you did not raise this issue in your direct appeal, explain why:

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes  No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion or petition?  Yes  No

(4) Did you appeal from the denial of your motion or petition?  Yes  No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?  Yes  No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:



(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One:

**GROUND TWO:**

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) If you did not exhaust your state remedies on Ground Two, explain why:

(c) **Direct Appeal of Ground Two:**

(1) If you appealed from the judgment of conviction, did you raise this issue?  Yes  No

(2) If you did not raise this issue in your direct appeal, explain why:

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes  No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion or petition?  Yes  No

(4) Did you appeal from the denial of your motion or petition?  Yes  No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?  Yes  No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you :  
have used to exhaust your state remedies on Ground Two

**GROUND THREE:**

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) If you did not exhaust your state remedies on Ground Three, explain why?

(c) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue?  Yes  No

(2) If you did not raise this issue in your direct appeal, explain why:

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes  No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion or petition?  Yes  No

(4) Did you appeal from the denial of your motion or petition?  Yes  No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?  Yes  No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three:

**GROUND FOUR:**

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) If you did not exhaust your state remedies on Ground Four, explain why:

(c) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue?  Yes  No

(2) If you did not raise this issue in your direct appeal, explain why:

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes  No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion or petition?  Yes  No

(4) Did you appeal from the denial of your motion or petition?  Yes  No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?  Yes  No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four:

13. 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, ground or grounds have not been presented, and state your reasons for not presenting them:

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition?  Yes  No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available.

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging?  Yes  No

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

16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(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 ruling against you in a post-conviction proceeding:

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging?  Yes  No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

(b) Give the date the other sentence was imposed:

(c) Give the length of the other sentence:

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future?  Yes  No

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

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\* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides in part that:

- (1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of -
  - (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
  - (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
  - (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
  - (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.



- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

Therefore, petitioner asks that the Court grant the following relief:

or any other relief to which petitioner may be entitled.

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Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on \_\_\_\_\_ (month, date, year).

Executed (signed) on \_\_\_\_\_ (date).

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Signature of Petitioner

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

# United States District Court

WESTERN DISTRICT OF KENTUCKY

**PRISONER APPLICATION TO PROCEED  
WITHOUT PREPAYMENT OF FEES AND  
AFFIDAVIT**

\_\_\_\_\_, Plaintiff

v.

\_\_\_\_\_, Defendant(s)

CASE NUMBER: \_\_\_\_\_

I, \_\_\_\_\_, swear or affirm under penalty of perjury that I am the (check appropriate box)

petitioner/plaintiff/movant     other \_\_\_\_\_

in the above-named proceeding, that I am unable to pay the costs of these proceedings, and that I believe I am entitled to the relief sought in the complaint/petition/motion. I further swear or affirm under penalty of perjury under United States laws that my answers on this form and any attachments are true and correct.

Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0" or "none," write in that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name and the question number.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Print your Name: \_\_\_\_\_

1. State the place of your incarceration: \_\_\_\_\_  
Your prisoner identification number: \_\_\_\_\_
2. Are you currently employed at the jail/prison/correctional facility?     Yes     No  
Do you receive payment from the jail/prison/correctional facility?     Yes     No
3. Estimate the average amount of money received from each of the following sources during the past 12 months. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income Source	Amount received during the past 12 months	Amount expected to receive in the future
Employment/Self-employment	\$ _____	\$ _____
Income from real property (such as rental income)	\$ _____	\$ _____
Interest & dividends	\$ _____	\$ _____
Gifts or Inheritance	\$ _____	\$ _____
Retirement (such as social security, pensions, annuities, insurance)	\$ _____	\$ _____

Income Source	Amount received during the past 12 months	Amount expected to receive in the future
Disability (such as social security, insurance payments)	\$ _____	\$ _____
Other (specify) _____	\$ _____	\$ _____
<b>Total Monthly Income</b>	\$ _____	\$ _____

4. How much cash do you have? \$ \_\_\_\_\_  
 State any money you have in any prison account, or in any checking or savings accounts, or in any other financial institution.

Where is the money? (include name of bank, savings & loan, prison account)	Type of Account	Amount You Have
a.		\$ _____
b.		\$ _____
c.		\$ _____

**NOTE: You must attach a statement certified by the appropriate prison or jail officer (see the last page of this document) showing all receipts, expenditures, and balances during the last six months in your prison or jail account(s).**

5. List the assets, and their values, which you own. Do not list clothing and ordinary household furnishings.

Asset	Description	Value
a. Stocks, bonds, securities or other financial instruments)		\$ _____
b. Other valuable property (for example, automobiles)		\$ _____

6. State every person, business, or organization owing you money, and the amount owed.

Who owes you money?	Amount owed to you
a.	\$ _____
b.	\$ _____
c.	\$ _____
d.	\$ _____

7. Do you expect any major changes to your income, or in your assets or liabilities during the next 12 months?  
 Yes  No  
If yes, describe on an attached sheet.

8. Provide any other information that will help explain why you cannot, or cannot without undue hardship, pre-pay the fees or costs for this case.

\* \* \* \* \*

**CERTIFICATE**  
(Incarcerated applicants only)  
(To be completed by the institution of incarceration)

I certify that the applicant named in the attached Application to Proceed Without Prepayment of Fees and Affidavit has the sum of \$ \_\_\_\_\_ on account to his/her credit at (name of institution) \_\_\_\_\_ . I further certify that the applicant has the following securities to his/her credit: \_\_\_\_\_ . I further certify that during the past six months the applicant's average balance was \$ \_\_\_\_\_ , and the following statement of all receipts, expenditures, and balances during the last six months is true and correct.

Date: \_\_\_\_\_

Signature of Authorized Officer: \_\_\_\_\_

Printed Name: \_\_\_\_\_

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.kved.uscourts.gov](http://www.kved.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.**

Dated: 10/27/04