

APPENDIX A. FORM PETITION

The following form petition shall be available without cost to a prisoner in the prisons and other places of detention and shall also be available without cost to any potential petitioner in the office of the clerk of court for any court of record with criminal jurisdiction. The standard form, together with Tenn. Code Ann. § 40-30-202(c), is designed to achieve early finality in post-conviction proceedings through one comprehensive petition and one full and fair hearing at which all grounds for challenging the validity of a conviction or sentence will be considered.

READ THESE INSTRUCTIONS CAREFULLY BEFORE PREPARING THE PETITION

(1) This petition must be legibly handwritten or typewritten. It must be signed by petitioner under penalty of perjury. Any false statement of a material fact may serve as the basis for prosecution and conviction of petitioner for perjury. All questions must be answered completely in the proper space on the form or on additional sheets submitted with the form. This form may be obtained at the place of confinement or from any clerk of a court of record with criminal jurisdiction.

(2) No citation of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum and not as part of this form.

(3) A separate petition must be filed for each judgment you seek to challenge. If you seek to challenge judgments entered in different trials or guilty plea proceedings, either in the same county or in different counties, you must file separate petitions.

(4) YOU MUST INCLUDE IN THIS PETITION ALL GROUNDS FOR RELIEF. FAILURE TO INCLUDE A GROUND FOR RELIEF IN THIS PETITION WILL RESULT IN YOUR BEING PERMANENTLY BARRED FROM PRESENTING IT IN A FUTURE PETITION OR PROCEEDING.

(5) YOU MUST INCLUDE ALL FACTS SUPPORTING EACH GROUND FOR RELIEF. YOU MUST BE AS SPECIFIC AS POSSIBLE AS TO THE FACTS.

(6) Complete all applicable items in the petition. When the petition is fully completed, the ORIGINAL must be mailed to the appropriate clerk of court.

(7) You must comply with these instructions in order to have your petition promptly considered.

(8) REMEMBER, A PETITIONER IS ENTITLED TO FILE ONLY ONE PETITION PER CASE.

IN THE _____ COURT OF

_____ COUNTY, TENNESSEE AT _____

)

PETITIONER (FULL NAME)

)

)

)

CASE NO. _____

VS.

)

)

(POST-CONVICTION)

)

STATE OF TENNESSEE

)

PETITION FOR RELIEF FROM CONVICTION OR SENTENCE

Mailing Address of Petitioner (including zip code)

Place of Confinement _____ Dep't of Corrections Number _____

NOTICE: BEFORE COMPLETING THIS FORM, READ CAREFULLY THE ACCOMPANYING INSTRUCTIONS.

1. Name and location (city and county) of court which entered the judgment of conviction or sentence challenged

2. Date of judgment of conviction _____

3. Case Number _____

4. Length of sentence _____

5. Offense Convicted of

6. What was your plea? (Check One)

(a) Guilty _____

(b) Not Guilty _____

(c) Not Guilty by reason of mental disease or defect _____

(d) Not guilty and not guilty by reason of mental disease or defect _____

(e) Nolo contendere _____

(f) None _____

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, specify.

(a) guilty plea counts: _____

(b) not guilty counts: _____

7. Kind of trial: (Check One)

(a) Jury _____ (b) Judge only _____

8. Did you testify at the trial?

Yes _____ No _____

9. Did you appeal from the judgment of conviction?

Yes _____ No _____

10. If you did appeal, answer the following:

(a) As to the state court to which you first appealed, give the following information:

(1) Name of court _____

(2) Result _____

(3) Date of result _____

(4) Grounds raised on appeal

(Attach additional sheets if necessary)

(b) If you appealed to any other court, then as to the second court to which you appealed, give the following information:

(1) Name of court _____

(2) Result _____

(3) Date of result _____

(4) Grounds raised on appeal

(Attach additional sheets if necessary)

(c) If you appealed to any other court, then as to the third court to which you appealed, give the following information:

(1) Name of court _____

(2) Result _____

(3) Date of result _____

(4) Grounds raised on appeal

(Attach additional sheets if necessary)

11. If more than one (1) year has passed since the date of final action on your direct appeal by the state appellate courts, state why the statute of limitations should not bar your claim.

12. Other than a direct appeal from the judgment(s) of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to the judgment(s) in any state or federal court?

Yes _____ No _____

13. If your answer to Question 12 was Yes, then give the following information in regard to the first such petition, application, or motion you filed:

(a) (1) Name of court _____

(2) Nature of proceeding _____

(3) Grounds raised

(Attach additional sheets if necessary)

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes _____ No _____

(5) Result _____

(6) Date of result _____

(b) As to any second petition, application, or motion, give same information:

(1) Name of court _____

(2) Nature of proceeding _____

(3) Grounds raised

(Attach additional sheets if necessary)

(4) Did you receive an evidentiary hearing on your petition, application, or motion?

Yes _____ No _____

(5) Result _____

(6) Date of result _____

(c) Did you appeal the result of the action taken on any petition, application, or motion identified above?

(1) First petition, etc. Yes _____ No _____

(2) Second petition, etc. Yes _____ No _____

(d) If you did not appeal when you lost on any petition, application, or motion, explain briefly why you did not appeal:

14. If you did not raise the grounds you raised here in your original prosecution and on your appeal from that prosecution, explain why your claim in this case has not been waived for failure to raise it on appeal. If the claim was raised, explain why your claim is not previously determined.

15. If you have previously filed a petition, application, or motion with respect to the judgment(s) in any court, explain why your claim in this case has not been waived for failure to raise it in that prior proceeding. If the claim was raised, explain why your claim is not previously determined.

16. Specify every ground on which you claim that you are being held unlawfully, by placing a check mark on the appropriate line(s) below and providing the required information or by attaching separate pages.

INCLUDE ALL FACTS WHICH SUPPORT THE GROUNDS YOU CLAIM.

GROUNDS OF PETITION

Listed below are possible grounds for relief. Consider the ground(s) that apply in your case, and follow the instruction under the ground(s):

_____ (1) Conviction was based on unlawfully induced guilty plea or guilty plea involuntarily entered without understanding of the nature and consequences of the plea.

_____ (2) Conviction was based on use of coerced confession.

_____ (3) Conviction was based on use of evidence gained pursuant to an unconstitutional search and seizure.

_____ (4) Conviction was based on use of evidence obtained pursuant to an unlawful arrest.

_____ (5) Conviction was based on a violation of the privilege against self incrimination.

_____ (6) Conviction was based on the unconstitutional failure of the prosecution to disclose to defendant evidence favorable to defendant.

_____ (7) Conviction was based on a violation of the protection against double jeopardy.

_____ (8) Conviction was based on action of a grand or petit jury that was unconstitutionally selected and impaneled.

_____ (9) Denial of effective assistance of counsel.

_____ (10) Newly discovered evidence.

_____ (11) Illegal evidence.

_____ (12) Other grounds.

THE LIST ABOVE DOES NOT INCLUDE A COMPLETE LIST OF ALL CONSTITUTIONAL VIOLATIONS. YOU MAY ADD ANY OTHERS YOU DEEM APPROPRIATE. ATTACH A SEPARATE SHEET OF PAPER LISTING EACH CONSTITUTIONAL VIOLATION THAT YOU CLAIM, WHETHER OR NOT IT IS LISTED ABOVE. UNDER EACH CLAIMED VIOLATION YOU CLAIM, LIST EACH AND EVERY FACT YOU FEEL SUPPORTS THIS GROUND. EXPLAIN IN DETAIL HOW YOU ARE PREJUDICED BY THE VIOLATION AND WHY YOU ARE ENTITLED TO RELIEF. BE SPECIFIC.

IMPORTANT NOTICE REGARDING ADDITIONAL PETITIONS: TENN. CODE ANN. § 40-30-202(c) LIMITS YOU TO ONLY ONE PETITION. TENN. CODE ANN. § 40-30-202(c) PROVIDES:

This chapter contemplates the filing of only one (1) petition for post-conviction relief. In no event may more than one (1) petition for post-conviction relief be filed attacking a single judgment. If a prior petition has been filed which was resolved on the merits by a court of competent jurisdiction, any second or subsequent petition shall be summarily dismissed.

17. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack?

Yes _____ No _____

18. Give the name and address, if known, of each attorney who represented you at the following stages of the case that resulted in the judgment under attack:

(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 adverse ruling in a post-conviction proceeding

19. Are you currently represented by counsel?

Yes _____ No _____

(a) If Yes, give name and address, if known, of the attorney representing you.

(b) If No, do you wish to have an attorney appointed?

Yes _____ No _____

(c) Has any attorney assisted in drafting or given advice regarding this petition for post-conviction relief?

Yes _____ No _____

If Yes, give name and address of attorney(s).

20. In the judgment you are attacking, 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 _____

21. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes _____ No _____

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

(b) And give date and length of sentence to be served in the future:

(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 _____

22. What date is this petition being given to prison authorities for mailing? _____

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

**PETITIONER'S VERIFICATION UNDER OATH
SUBJECT TO PENALTY FOR PERJURY**

I swear (or affirm) under penalty of perjury that the foregoing is true and correct. Executed on

(Date)

Signature of Petitioner

SWORN TO AND SUBSCRIBED before me this the _____ day of _____, 20____.

Notary Public

My commission expires: _____