

APPENDIX 17

APPLICATION FORM, 28 U.S.C. §2254

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

INSTRUCTIONS - READ CAREFULLY

- (1) This petition must be legibly handwritten or typewritten, signed by the petitioner and subscribed to under penalty of perjury as being true and correct. Any false statement of a material fact may serve as the basis for a prosecution and conviction for perjury. All questions must be answered concisely in the proper space on the form. Where more room is needed to answer any questions use reverse side of sheet.
- (2) Additional pages are not permitted. No citation of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.
- (3) Upon receipt of a fee of \$5.00, your petition will be filed if it is in proper order.
- (4) If you do not have the necessary filing fee, you may request permission to proceed *in forma pauperis*, in which event you must execute the affidavit on the last page, setting forth information establishing your inability to prepay the fees and costs or give security therefor. 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 credit in any account in the institution.
- (5) Only judgments entered by one court may be challenged in a single petition. If you seek to challenge judgments entered by different courts, either in the same state or in different states, you must file separate petitions as to each court.
- (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 petition you file seeking relief from any judgment of conviction.
- (7) When the petition is fully completed, the original and two copies must be mailed to the Clerk of the United States District Court whose address is:

Post Office Box 419, Newark, N.J. 07101

- (8) Petitions which do not conform to these instructions will be returned with a notation as to the deficiency.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

**FORM FOR USE IN APPLICATION
FOR HABEAS CORPUS UNDER 28 U.S.C. §2254**

Name

Prison Number

Place of Confinement

United States District Court for the District of _____

Case No. _____

(to be supplied by Clerk of U.S. District Court).

_____, PETITIONER

(Full name) (Include name under which you were convicted)

v.

_____, RESPONDENT

(Name of Warden, Superintendent, Jailor, or authorized person having custody of petitioner)

and

THE ATTORNEY GENERAL OF THE STATE OF _____

_____, ADDITIONAL RESPONDENT.

(If petitioner is attacking a judgment which imposed a sentence to be served in the future, petitioner must fill in the name of the state where the judgment was entered. If petitioner has a sentence to be served in the future under a federal judgment which he wishes to attack, he should file a motion under 28 U.S.C. §2255, in the federal court which entered the judgment.)

PETITION

1. Name and location of court which entered judgment of conviction under attack

2. Date of judgment of conviction _____

3. Length of sentence _____. Sentencing Judge _____

4. Nature of offense or offenses for which you were convicted:

5. What was your plea? (Check one)

(a) Not guilty []

(b) Guilty []

(c) Nolo contendere []

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:

6. Kind of trial: (Check one)

- (a) Jury []
- (b) Judge only []

7. Did you testify at the trial? 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) Result _____
- (c) Date of result _____

If you filed a second appeal to the Supreme Court of New Jersey or filed a petition for certiorari in the Supreme Court of the United States, give details:

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 court, state or federal? Yes [] No []

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

- (a) (1) Name of Court _____
- (2) Nature of Proceeding _____
- (3) Grounds raised _____

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

- (5) Result _____
- (6) Date or result _____

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

- (1) Name of Court _____
- (2) Nature of Proceeding _____
- (3) Grounds raised _____

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

- (5) Result _____
- (6) Date of result _____

(c) As to any third petition, application or motion give the same information:

- (1) Name of Court _____
- (2) Nature of Proceeding _____

(3) Grounds raised _____

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

(5) Result _____

(6) Date of result _____

(d) Did you appeal the result of any action taken on any petition, application or motion to the highest state court having jurisdiction:

(1) First petition, etc. Yes [] No []

(2) Second petition, etc. Yes [] No []

(3) Third petition, etc. Yes [] No []

(e) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

12. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground.

CAUTION: In order to proceed in the federal court, you must ordinarily first exhaust your state court remedies as to each ground on which you request action by the federal court. As to all grounds on which you have previously exhausted state court remedies, you should set them forth in this petition if you wish to seek federal relief. If you fail to set forth all such grounds in this petition, you may be barred from presenting them at a later date.

A. Ground one: _____

Supporting FACTS (tell your story briefly without citing cases or law):

B. Ground two: _____

Supporting FACTS (tell your story briefly without citing cases or law):

C. Ground three: _____

Supporting FACTS (tell your story briefly without citing cases or law):

D. Ground four: _____

Supporting FACTS (tell your story briefly without citing cases or law):

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

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

Yes [] No []

15. Give 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 an 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 sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes [] No []