

**Petition for Relief From a Conviction or Sentence
By a Person in State Custody**

(Petitioner Under 28 U.S.C. § 2254 for a Writ of Habeas Corpus)

Instructions

1. To use this form, you must be a person who is currently serving a sentence under a judgment against you in a state court. This form is your petition for relief from that conviction or sentence.
2. You may also use this form to challenge a state judgment that imposed a sentence to be served in the future, but you must fill in the name of the state where the judgment was entered. If you want to challenge a federal judgment that imposed a sentence to be served in the future, you should file a motion under 28 U.S.C. § 2255 in the federal court that entered the judgment.
3. Make sure the form is typed or neatly written.
4. You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
5. Answer all the questions. You do not need to cite law. You may submit additional pages if necessary. If you do not fill out the form properly, you will be asked to submit additional or corrected information. If you want to submit a brief or arguments, you must submit them in a separate memorandum.
6. You must pay a fee of \$5. If the fee is paid, your petition will be filed. If you cannot pay the fee, you may ask to proceed *in forma pauperis* (as a poor person). To do that, you must fill out the enclosed AO 240 form. Also, you must submit a certificate signed by an officer at the institution where you are confined showing the amount of money that the institution is holding for you.
7. In this petition, you may challenge the judgment entered by only one court. If you want to challenge a judgment entered by a different court (either in the same state or in different states), you must file a separate petition.
8. When you have completed the form, send the original and two copies to the Clerk of the United States District Court at one of the following addresses:

Clerk, U.S. District Court
399 Federal Bldg.
110 Michigan St., NW
Grand Rapids, MI 49503

Clerk, U.S. District Court
107 Federal Bldg.
410 W. Michigan Ave.
Kalamazoo, MI 49007

Clerk, U.S. District Court
314 Federal Bldg.
P.O. Box 698
Marquette, MI 49855

Clerk, U.S. District Court
113 Federal Bldg.
315 W. Allegan
Lansing, MI 48933

9. **CAUTION:** You must include in this petition all the grounds for relief from the conviction or sentence that you challenge. And you must state the facts that support each ground. If you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

**PETITION UNDER 28 USC § 2254 FOR WRIT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY**

United States District Court	District
Name (under which you were convicted):	Docket or Case No.:
Place of Confinement:	Prisoner No.:
Name of Petitioner (include name under which convicted) Name of Respondent (authorized person having custody)	
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: _____
2. Date of judgment of conviction: _____
3. Identify all counts and crimes for which you were convicted and sentenced in this case: _____

4. Length of sentence for each count or crime for which you were convicted in this case: _____

5. (a) What was your plea?
 Not guilty
 Guilty
 Nolo contendere (no contest)

(b) If you entered a guilty plea to one count or charge, and a not guilty plea to another count or charge, give details:

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

- (a) Jury
- (b) Judge only

7. Did you testify at the trial? Yes No

8. Did you file a direct appeal to the Michigan Court of Appeals from the judgment of conviction? Yes No

9. If you did appeal, answer the following:

(a) Date you filed: _____

(b) Docket or case number: _____

(c) Result: _____

(d) Date of result: _____

(e) Grounds raised: _____

Please submit, if available, a copy of any brief filed on your behalf and a copy of the decision by the court.

(g) Did you seek further review of the decision on appeal by the Michigan Supreme Court? Yes No

If yes, answer the following:

(1) Date you filed: _____

(2) Docket or case number: _____

(3) Result: _____

(4) Date of result: _____

(5) Grounds raised: _____

Please submit, if available, a copy of any brief filed on your behalf and a copy of the decision by the court.

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

If yes, answer the following:

(1) Date you filed: _____
(2) Docket or case number: _____
(3) Result: _____
(4) Date of result: _____
(5) Grounds raised: _____

10. Did you file a motion for relief from judgment pursuant to Subchapter 6.500 of the Michigan Court Rules with respect to the judgment of conviction and sentence? Yes No

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

(a) (1) Date you filed: _____
(2) Name of court: _____
(3) Docket or case number: _____
(4) Grounds raised: _____

(5) Did you receive a hearing where evidence was given on your motion? Yes No

(6) Result: _____

(6) Date of result: _____

Please submit, if available, a copy of any brief filed on your behalf and a copy of the decision by the court.

(b) If you sought further review of the decision in the Michigan Court of Appeals, please answer the following:

(1) Date you filed: _____

(2) Docket or case number: _____

(3) Result: _____

(4) Date of result: _____

(5) Grounds raised: _____

Please submit, if available, a copy of any brief filed on your behalf and a copy of the decision by the court.

(c) If you sought further review of the decision in the Michigan Supreme Court, please answer the following:

(1) Date you filed: _____

(2) Docket or case number: _____

(3) Result: _____

(4) Date of result: _____

(5) Grounds raised: _____

Please submit, if available, a copy of any brief filed on your behalf and a copy of the decision by the court.

12. Other than a direct appeal or a motion for relief from judgment, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal? Yes No

13. If your answer to 12 was "yes," give the following information: **[Attach additional sheets of paper, if necessary, to answer the following for each petition, application, or motion you filed.]**

(a) (1) Date you filed: _____

(2) Name of court: _____

(2) Docket or case number: _____

(3) Nature of the proceeding: _____

(4) Grounds raised: _____

(5) Did you receive a hearing where evidence was given on your motion? Yes No

(6) Result: _____

(7) Date of result: _____

Please submit, if available, a copy of any brief filed on your behalf and a copy of the decision by the court.

(b) Did you appeal to the highest court having jurisdiction the result of action taken on any petition, application or motion?
Yes No

If yes, please provide the following:

(1) Date you filed: _____

(2) Name of court: _____

(3) Result: _____

(4) Date of result and case number: _____

(5) Grounds raised: _____

Please submit, if available, a copy of any brief filed on your behalf and a copy of the decision by the court.

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

14. 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 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) **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: _____

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

(1) Did you raise this issue in a motion for relief from judgment pursuant to Subchapter 6.500 of the Michigan Court Rules? Yes No

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

Date motion was filed: _____

Name and location of the court where the motion was filed: _____

Docket or case number: _____

Result (attach a copy of the court’s opinion and order, if available): _____

Date of result: _____

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

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

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

If yes, answer the following:

Date you filed: _____

Name and location of court: _____

Docket or case number: _____

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

Date of result: _____

(d) **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: _____

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

GROUND TWO: _____

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

(b) **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: _____

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

(1) Did you raise this issue in a motion for relief from judgment pursuant to Subchapter 6.500 of the Michigan Court Rules? Yes No

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

Date motion was filed: _____

Name and location of the court where the motion was filed: _____

Docket or case number: _____

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

Date of result: _____

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

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

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

If yes, answer the following:

Date you filed: _____

Name and location of court: _____

Docket or case number: _____

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

Date of result: _____

(d) **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: _____

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

GROUND THREE: _____

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

(b) **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: _____

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

(1) Did you raise this issue in a motion for relief from judgment pursuant to Subchapter 6.500 of the Michigan Court Rules? Yes No

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

Date motion was filed: _____

Name and location of the court where the motion was filed: _____

Docket or case number: _____

Result (attach a copy of the court’s opinion and order, if available): _____

Date of result: _____

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

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

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

If yes, answer the following:

Date you filed: _____

Name and location of court: _____

Docket or case number: _____

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

Date of result: _____

(d) **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: _____

(e) If you did not exhaust your state remedies on Ground Three, explain why: _____

GROUND FOUR: _____

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

(b) **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: _____

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

(1) Did you raise this issue in a motion for relief from judgment pursuant to Subchapter 6.500 of the Michigan Court Rules? Yes No

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

Date motion was filed: _____

Name and location of the court where the motion was filed: _____

Docket or case number: _____

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

Date of result: _____

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

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

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

If yes, answer the following:

Date you filed: _____

Name and location of court: _____

Docket or case number: _____

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

Date of result: _____

(d) **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: _____

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

15. 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 date of filing, 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:

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

If "Yes," state the date of filing, the name and location of the court, the docket or case number, the type of proceeding, and the issues raised:

17. Give the name and address, if known, 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 adverse ruling in a post-conviction proceeding: _____

18. Do you have any future sentence to serve after you complete the sentence imposed by the judgment you are challenging?
Yes No

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

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

(c) Give the length of the above 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

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

*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 1-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 him or her the relief to which he may be entitled in this proceeding.

I declare 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).

Signature of Petitioner

Date

Signature of Attorney (if any)

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

