

**INSTRUCTIONS FOR FILING**  
**PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF HABEAS CORPUS**  
**IN THE UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF CALIFORNIA**  
**BY A PERSON IN *STATE* CUSTODY**

(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 that entered the judgment.)

- (1) This petition must be legibly handwritten or typewritten, and signed by the petitioner 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. Do **NOT** write on the back of any page.
- (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 memorandum.
- (3) Upon receipt of a **fee of \$5.00** your petition will be filed if it is in proper order. The \$5.00 fee must be submitted with the petition, not separately.
- (4) If you do not have the necessary funds for the filing fee, transcripts, counsel, appeal, and other costs connected with the petition, you may request permission to proceed in forma pauperis, in which event you must execute the form provided by the Court, setting forth information establishing your inability to pay the costs. 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) 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 at least one copy must be mailed to: Clerk of U.S. District Court, Room 4290, 880 Front Street, San Diego CA 92101-8900.
- (8) Petitions that do not conform to these instructions will be returned with a notation as to the deficiency.

NAME

PRISON NUMBER

CURRENT ADDRESS OR PLACE OF CONFINEMENT

CITY, STATE, ZIP CODE

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

\_\_\_\_\_,  
(FULL NAME OF PETITIONER)

**PETITIONER**

v.

\_\_\_\_\_,  
(NAME OF WARDEN, SUPERINTENDENT, JAILOR, OR AUTHORIZED  
PERSON HAVING CUSTODY OF PETITIONER [E.G., DIRECTOR OF THE  
CALIFORNIA DEPARTMENT OF CORRECTIONS])

**RESPONDENT**

and

\_\_\_\_\_,  
The Attorney General of the State of  
California, Additional Respondent.

Civil No \_\_\_\_\_  
(TO BE FILLED IN BY CLERK OF U.S. DISTRICT COURT)

**PETITION FOR WRIT OF HABEAS CORPUS**

UNDER 28 U.S.C. § 2254  
BY A PERSON IN STATE CUSTODY

1. Name and location of the court that entered the judgment of conviction under attack:

\_\_\_\_\_

2. Date of judgment of conviction:

\_\_\_\_\_

3. Trial court case number of the judgment of conviction being challenged:

\_\_\_\_\_

4. Length of sentence:

\_\_\_\_\_

5. Sentence start date and projected release date: \_\_\_\_\_  
\_\_\_\_\_

6. Offense(s) for which you were convicted or pleaded guilty (all counts):  
\_\_\_\_\_

7. What was your plea? (CHECK ONE)

- (a) Not guilty
- (b) Guilty
- (c) Nolo contendere

8. If you pleaded not guilty, what kind of trial did you have? (CHECK ONE)

- (a) Jury
- (b) Judge only

9. Did you testify at the trial?

- Yes  No

**DIRECT APPEAL**

10. Did you appeal from the judgment of conviction in the **California Court of Appeal**?

- Yes  No

11. If you appealed in the **California Court of Appeal**, answer the following:

- (a) Result: \_\_\_\_\_
- (b) Date of result (if known): \_\_\_\_\_
- (c) Case number and citation (if known): \_\_\_\_\_
- (d) Names of Judges participating in case (if known):  
\_\_\_\_\_
- (e) Grounds raised on direct appeal:  
\_\_\_\_\_

12. If you sought further direct review of the decision on appeal by the **California Supreme Court** (e.g., a Petition for Review), please answer the following:

- (a) Result: \_\_\_\_\_
- (b) Date of result (if known): \_\_\_\_\_
- (c) Case number and citation (if known):  
\_\_\_\_\_
- (d) Grounds raised:  
\_\_\_\_\_

13. If you filed a petition for certiorari in the **United States Supreme Court**, please answer the following with respect to that petition:

(a) Result: \_\_\_\_\_

(b) Date of result (if known): \_\_\_\_\_

(c) Case number and citation (if known):  
\_\_\_\_\_

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

### **COLLATERAL REVIEW IN STATE COURT**

14. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions (e.g., a Petition for Writ of Habeas Corpus) with respect to this judgment in the **California Superior Court**?

Yes  No

15. If your answer to #14 was “Yes,” give the following information:

(a) **California Superior Court** Case Number (if known): \_\_\_\_\_

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

(c) Grounds raised:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

Yes  No

(e) Result: \_\_\_\_\_

(f) Date of result (if known): \_\_\_\_\_

16. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions (e.g., a Petition for Writ of Habeas Corpus) with respect to this judgment in the **California Court of Appeal**?

Yes  No

17. If your answer to #16 was “Yes,” give the following information:

- (a) **California Court of Appeal** Case Number (if known):
- (b) Nature of proceeding:
- (c) Names of Judges participating in case (if known)
- (d) Grounds raised:
- (e) Did you receive an evidentiary hearing on your petition, application or motion?  
 Yes  No
- (f) Result:
- (g) Date of result (if known):

18. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions (e.g., a Petition for Writ of Habeas Corpus) with respect to this judgment in the **California Supreme Court**?  
 Yes  No

19. If your answer to #18 was “Yes,” give the following information:

- (a) **California Supreme Court** Case Number (if known):
- (b) Nature of proceeding:
- (c) Grounds raised:
- (d) Did you receive an evidentiary hearing on your petition, application or motion?  
 Yes  No
- (e) Result:
- (f) Date of result (if known):

20. If you did *not* file a petition, application or motion (e.g., a Petition for Review or a Petition for Writ of Habeas Corpus) with the California Supreme Court, containing the grounds raised in this federal Petition, explain briefly why you did not:

### COLLATERAL REVIEW IN FEDERAL COURT

21. Is this your **first** federal petition for writ of habeas corpus challenging this conviction?

Yes  No (If "YES" SKIP TO #22)

- (a) If no, in what federal court was the prior action filed?
- (i) What was the prior case number?
- (ii) Was the prior action (CHECK ONE):
- Denied on the merits?
- Dismissed for procedural reasons?
- (iii) Date of decision:
- (b) Were any of the issues in this current petition also raised in the prior federal petition?
- Yes  No
- (c) If the prior case was denied on the merits, has the Ninth Circuit Court of Appeals given you permission to file this second or successive petition?
- Yes  No

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#### CAUTION:

- **Exhaustion of State Court Remedies:** In order to proceed in federal court you must ordinarily first exhaust your state court remedies as to each ground on which you request action by the federal court. This means that even if you have exhausted some grounds by raising them before the California Supreme Court, you must first present *all* other grounds to the California Supreme Court before raising them in your federal Petition.
  - **Single Petition:** If you fail to set forth all grounds in this Petition challenging a specific judgment, you may be barred from presenting additional grounds challenging the same judgment at a later date.
  - **Factual Specificity:** You must state facts, not conclusions, in support of your grounds. For example, if you are claiming incompetence of counsel you must state facts specifically setting forth what your attorney did or failed to do. A rule of thumb to follow is — state who did exactly what to violate your federal constitutional rights at what time or place.
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**GROUNDS FOR RELIEF**

22. State *concisely* every ground on which you claim that you are being held in violation of the constitution, law or treaties of the United States. Summarize *briefly* the facts supporting each ground. (e.g. what happened during the state proceedings that you contend resulted in a violation of the constitution, law or treaties of the United States.) If necessary, you may attach pages stating additional grounds and/or facts supporting each ground.

(a) **GROUND ONE:**

**Supporting FACTS:**

**Did you raise GROUND ONE in the California Supreme Court?**

Yes  No.

If yes, answer the following:

(1) Nature of proceeding (i.e., petition for review, habeas petition):

(2) Case number or citation:

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

(b) **GROUND TWO:**

[Redacted area]

**Supporting FACTS:**

[Redacted area]

**Did you raise GROUND TWO in the California Supreme Court?**

Yes  No.

If yes, answer the following:

(1) Nature of proceeding (i.e., petition for review, habeas petition): [Redacted area]

(2) Case number or citation: [Redacted area]

(3) Result (attach a copy of the court's opinion or order if available):  
[Redacted area]



**(c) GROUND THREE:**

[Redacted area]

**Supporting FACTS:**

[Redacted area]

**Did you raise GROUND THREE in the California Supreme Court?**

Yes  No.

If yes, answer the following:

(1) Nature of proceeding (i.e., petition for review, habeas petition): [Redacted]

(2) Case number or citation: [Redacted]

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

[Redacted area]

(d) **GROUND FOUR:**

[Redacted area]

**Supporting FACTS:**

[Redacted area]

**Did you raise GROUND FOUR in the California Supreme Court?**

Yes  No.

If yes, answer the following:

(1) Nature of proceeding (i.e., petition for review, habeas petition): [Redacted area]

(2) Case number or citation: [Redacted area]

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

[Redacted area]

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

Yes  No

24. If your answer to #23 is “Yes,” give the following information:

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

(b) Case Number: \_\_\_\_\_

(c) Date action filed: \_\_\_\_\_

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

(e) Name(s) of judges (if known): \_\_\_\_\_

(f) Grounds raised:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

Yes  No

25. 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:  
\_\_\_\_\_  
\_\_\_\_\_

26. 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

27. 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 that imposed sentence to be served in the future:

(b) Give date and length of the future 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

## 28. Consent to Magistrate Judge Jurisdiction

In order to insure the just, speedy and inexpensive determination of Section 2254 habeas cases filed in this district, the parties may waive their right to proceed before a district judge and consent to magistrate judge jurisdiction. Upon consent of all the parties under 28 U.S.C. § 636(c) to such jurisdiction, the magistrate judge will conduct all proceedings including the entry of final judgment. The parties are free to withhold consent without adverse substantive consequences.

The Court encourages parties to consent to a magistrate judge as it will likely result in an earlier resolution of this matter. If you request that a district judge be designated to decide dispositive matters, a magistrate judge will nevertheless hear and decide all non-dispositive matters and will hear and issue a recommendation to the district judge as to all dispositive matters.

You may consent to have a magistrate judge conduct any and all further proceedings in this case, including the entry of final judgment, by indicating your consent below.

Choose only one of the following:

Plaintiff consents to magistrate judge jurisdiction as set forth above.

**OR**

Plaintiff requests that a district judge be designated to decide dispositive matters and trial in this case.

29. Date you are mailing (or handing to a correctional officer) this Petition to this court:

Wherefore, Petitioner prays that the Court grant Petitioner relief to which he may be entitled in this proceeding.

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SIGNATURE OF ATTORNEY (IF ANY)

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

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(DATE)

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SIGNATURE OF PETITIONER