

**INSTRUCTIONS FOR PERSONS FILING A PRO SE
PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. §2254**

These instructions are to help you understand the forms for filing a petition for writ of habeas corpus and a little bit about Court procedures, but **THE COURT CANNOT GIVE YOU LEGAL ADVICE.**

Is this form for you?

Generally, §2254 may be used by a person in custody pursuant to a judgment by a state court or who in the future will be in custody pursuant to a judgment by a state court, to seek a determination that the custody is in violation of the Constitution, laws, or treaties of the United States. 28 U.S.C. §2244(b) limits the jurisdiction of this Court to one petition per judgment, unless permission to consider a second or successive petition is given by the United States Court of Appeals for the Fourth Circuit. If you previously filed a habeas corpus petition under 28 U.S.C. §2254 challenging the same judgment, which was dismissed or denied with prejudice, **do not use these forms**. Use the forms for filing a motion with the United States Court of Appeals to authorize consideration of a second or successive habeas corpus petition.

How to file a petition

To begin a lawsuit you must file an original and one copy of your petition with the court. You should keep a copy of the petition for your own records. The Court is not responsible for providing copies to you. **ALL COPIES MUST BE IDENTICAL TO THE ORIGINAL.**

Your petition must be legibly handwritten or typed. If you need more space to answer a question you may write on the back of the form or attach additional pages. All pages should be 8 ½” by 11”.

Generally, the Respondents are the warden or administrator of the facility where you are detained and the Attorney General for the State of Maryland. In some cases, there may be other respondents.

If you wish to challenge judgments from different courts or judgments entered at different times in different cases, you must file a separate petition for each judgment. If you are challenging multiple convictions in a single indictment or in cases which were tried at the same time, you may file a single petition.

Answer the questions about state court proceedings carefully. **FAILING TO PROVIDE THE INFORMATION REQUESTED MAY RESULT IN YOUR PETITION BEING DENIED OR CAUSE DELAYS IN PROCESSING YOUR PETITION.**

In your petition list each ground on which you are seeking relief and state the facts of your case that support each ground. Because federal law limits the circumstances under which a second or successive petition may be considered, you should include **all** grounds upon which you wish to seek relief. It is not necessary to provide legal citations. If you wish to submit arguments in support of your petition, they should be in the form of a separate memorandum.

The petition **must** be signed under oath by the person seeking relief or by someone authorized to act on his or her behalf.

When the forms are completed mail the original and one copy to: Clerk, United States District Court for the District of Maryland, 101 West Lombard Street, Baltimore, Maryland 21201.

How to ask for the filing fee to be waived

There is a fee of \$5.00 for filing this type of lawsuit. This must be paid at the time your petition is filed. If you are unable to pay the filing fee you may ask the Court to let you proceed in forma pauperis. The practice of this Court is that a motion for leave to proceed in forma pauperis will not be granted if, after paying the filing fee, you would have \$25.00 or more left in your institutional account.

What the court will do with your petition

Once your petition is received by the Court it will be reviewed and a case number and judge will be assigned. Everything that you receive from the Court about your case will have your case number on it. Everything that you send to the Court other than the petition and motion and affidavit to proceed in forma pauperis should have the case number on it. The Court may order that you provide additional information. If it does, it is important that you submit the information in a timely manner. If you do not respond your petition may be denied. The Court may order that the Respondents file an answer to your petition. If an answer is filed you may file a reply within thirty days from the date it was filed or such other time as is fixed by the Court.

Things to know about representing yourself

There are specific procedural rules which apply to actions under 28 U.S.C. §2254. They are called the Rules Governing Habeas Corpus Cases Under Section 2254 In The United States District Courts. The Federal Rules of Civil Procedure will apply in some circumstances, as well as the Local Rules of this Court.

Unless directed otherwise, all communications to the Court about your case should be addressed to:

Clerk of the Court
United States District Court
101 West Lombard Street
Baltimore, Maryland 21201

You must notify the Court in writing of any change in your address. Failure to do this may result in dismissal of your case.

After you file the petition no communication about your case should be sent directly to any judge. If you want to ask the Court to do something, you should file a motion. Pleadings and motions should be filed

with the Clerk and a copy should be mailed to the attorney representing the respondent(s) or directly to the respondent(s) if he/she does not have an attorney. It is important to include a certificate of service on anything you file after your petition showing when you mailed copies and to whom they were sent. The certificate of service appears at the end of the pleading or motion and looks like the sample below.

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, _____, a copy of this _____
(title of the document) _____, was mailed, postage prepaid, to
(name and address of the attorney or person to whom you sent it).

(your signature _____)

It is not necessary to state in the certificate of service that copies were sent to the Court or to the Clerk.

Do not file any motions or memoranda that are longer than fifty pages unless you have received permission from the Court. Most motions and memoranda should be much shorter than fifty pages.

You do not have to file copies of exhibits that are already on file in the same case. For example, if the respondents in your case file an answer and attach as an exhibit a copy of your post conviction petition, you do not have to attach a copy of that document to any motions or memoranda you file. You may simply refer to the copy that is already in the file.

You must sign every pleading, motion, and memorandum that you file. You **MAY NOT** sign someone else's name, nor may you file anything on behalf of someone else.

FORM TO BE USED BY A PERSON FILING A PETITION FOR
WRIT OF HABEAS CORPUS UNDER 28 U.S.C. §2254

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

(Full name, date of birth, identification
number and address of the petitioner)

v.

Civil Action No. _____
(Leave blank. To be filled in by Court.)

(Name of the Warden or other person having
custody of the petitioner)
and

THE ATTORNEY GENERAL OF THE STATE
OF MARYLAND

PETITION FOR WRIT OF HABEAS CORPUS

1. Name and location of the court which entered the judgment/conviction being challenged.

2. Date of judgment or sentencing.

3. Length of sentence.

4. Nature of offense (all counts).

5. What was your plea? (check one)

- (a) Not Guilty []
- (b) Not Guilty on Agreed Statement of Facts []
- (b) Guilty []
- (c) Nolo Contendere []
- (d) Alford Plea []

If you entered different pleas to different counts or charges, explain.

6. Kind of trial. (check one)

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

7. Did you testify at the trial?

Yes [] No []

8. Did you appeal or seek leave to appeal to the Maryland Court of Special Appeals?

Yes [] No []

If you answered yes, provide the following information:

A. What grounds did you raise?

B. What was the result?

C. What was the date of the decision by the Court of Special Appeals?

9. Did you file a petition for writ of certiorari to the Maryland Court of Appeals?

Yes [] No []

If you answered yes, what was the result?

If you answered yes, what was the date of the decision by the Court of Appeals?

10. Did you file a petition for writ of certiorari to the United States Supreme Court?

Yes [] No []

If you answered yes, what was the result?

If you answered yes, what was the date of the decision by the Supreme Court?

11. Have you filed any post conviction petitions challenging this judgment/sentence?

Yes [] No []

If you answered yes, provide the following information for **each** post conviction petition:

A. Name and location of the court where you filed.

B. Date the post conviction petition was filed.

C. What grounds did you raise?

D. What was the result?

E. What was the date of the decision?

F. Did you file an application for leave to appeal to the Court of Special Appeals?

Yes [] No []

G. What was the result?

H. What was the date of the decision by the Court of Special Appeals?

I. If the Court of Special Appeals granted your application for leave to appeal but affirmed a decision denying post conviction relief, did you file a petition for writ of certiorari to the Court of Appeals?

Yes [] No []

J. What was the result?

K. What was the date of the decision by the Court of Appeals?

12. Have you filed any other actions in any state or federal court challenging the judgment which is the subject of this petition?

Yes [] No []

If you answered yes, provide an explanation of what you filed, where, when, and what the result was.

13. Do you CURRENTLY HAVE PENDING in any state or federal court any motion, petition, or appeal concerning the judgment being challenged in this petition?

Yes [] No []

If you answered yes, describe what you filed, when, where, and its current status.

14. In most cases federal law requires that a habeas corpus petition be filed within one (1) year of the date your conviction became final. The time when a post conviction petition is pending or on appeal does NOT count towards the one year. 28 U.S.C. § 2244(d). If this petition is being filed more than one year after your conviction became final, explain why it is late and/or why you believe the one year limitations period does not apply.

15. State BRIEFLY every ground on which you claim you are being held unlawfully. BRIEFLY summarize the facts supporting each ground. If necessary, you may attach additional pages.

A. Ground One: _____

Supporting Facts: _____

B. Ground Two: _____

Supporting Facts: _____

C. Ground Three: _____

Supporting Facts: _____

D. Ground Four: _____

Supporting Facts: _____

16. If any of the issues that you are raising in this petition have not been presented to a state court, explain which issues are being raised for the first time and why.

17. Do you have any other sentence(s) to be served after you complete the sentence(s)/commitment that is being challenged in this petition?

Yes [] No []

If you answered yes, provide the following information about each of your future sentences:

A. Name and location of the court that imposed the sentence.

B. Length of the sentence. _____

C. Have you filed, or do you intend to file, a petition attacking this sentence?

Yes [] No []

WHEREFORE, Petitioner prays that the Court grant him all relief to which he may be entitled in this action.

I DECLARE UNDER THE PENALTIES OF PERJURY THAT THE INFORMATION ABOVE IS TRUE AND CORRECT.

SIGNED THIS _____ day of _____, _____.

(original signature of petitioner)

(address of petitioner)

FORM TO BE USED BY A PERSON SEEKING LEAVE TO PROCEED
IN FORMA PAUPERIS IN A HABEAS CORPUS ACTION

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

(name of petitioner)

v.

Civil Action No. _____
(Leave blank. To be filled in by Court.)

(name of respondent)

MOTION AND AFFIDAVIT TO PROCEED IN FORMA PAUPERIS

I, _____, declare that I am the petitioner in this case. I understand that the fee for filing this type of case is \$5.00. Because of my poverty, I am unable to pay the filing fee and costs of this action at this time, nor am I able to give security therefor.

I believe that I have a meritorious complaint and am entitled to relief in these proceedings.

In support of this motion, I answer the following questions:

1. Are you presently employed in an institutional job or other assignment that results in compensation of any sort, including work release?

YES [] NO []

- a. If you answered YES, list your employer or assignment and the amount of your wages.

Employer/assignment: _____

Monthly gross wages: _____

Monthly net wages: _____

- b.** If you answered NO, state the date of your last employment or assignment, the name of your employer or assignment, and the amount of wages you received.

Date: _____

Employer/assignment: _____

Monthly gross wages: _____

Monthly net wages: _____

- 2.** Within the past twelve months have you received any income from: 1) settlements, judgments, or monetary awards from a court; 2) Social Security, public assistance, workers' compensation or disability payments; 3) a business, profession or other form of self-employment; 4) rent, interest or dividends; 5) retirement, annuity, pension or insurance payment; 6) gifts or inheritances; 7) or any other sources?

YES [] NO []

If you answered YES, list the amount received, date it was received, and the source.

<u>Amount</u>	<u>Date received</u>	<u>Source</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

- 3.** How much money do you have in your institutional account? _____
- 4.** How much money do you have in checking, savings or other accounts outside of the institution? _____
- 5.** Do you own or have any interest in any real estate, stocks, bonds, notes, automobiles, or other valuable property (not including ordinary household furnishings and clothes)?

YES [] NO []

If you answered YES, list the value and describe each item.

<u>Value</u>	<u>Description</u>
_____	_____
_____	_____
_____	_____
_____	_____

6. List everyone (including businesses and the government) that you owe money and the amount that you owe.

<u>Creditor</u>	<u>Total debt</u>	<u>Monthly payment</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

7. List any other major monthly expenses that you are actually paying.

<u>Description</u>	<u>Monthly payment</u>
_____	_____
_____	_____

I DECLARE UNDER THE PENALTIES OF PERJURY THAT THE INFORMATION ABOVE IS TRUE AND CORRECT.

(date)

(original signature of petitioner)