

**INSTRUCTIONS FOR PERSONS FILING A PRO SE MOTION TO VACATE,
SET ASIDE, OR CORRECT SENTENCE UNDER 28 U.S.C. §2255**

This packet includes two copies of a form motion. There are instructions to help you understand the forms and a little bit about Court procedures, but **THE COURT CANNOT GIVE YOU LEGAL ADVICE**. The Court may not accept your motion for filing unless you follow these instructions and provide the information requested in these forms.

Is this form for you?

Generally, §2255 may be used by a person in custody pursuant to a judgment by a federal court or who in the future will be in custody pursuant to a judgment by a federal court, to seek a determination that the custody is in violation of the Constitution or laws of the United States, or that the court did not have jurisdiction to impose the judgment, or that the sentence exceeds the maximum permitted by law, or is otherwise subject to collateral attack. 28 U.S.C. §2255 limits the jurisdiction of a Federal District Court to one motion per judgment, unless permission to consider a second or successive motion is given by the United States Court of Appeals for the Circuit in which the Court is located. If you previously filed a motion under 28 U.S.C. §2255 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 motion to vacate, set aside, or correct sentence.

How to file a motion

To begin proceedings under §2255 you must file an original and one copy of your motion with the court. You should keep a copy of the motion for your own records. The Court is not responsible for providing copies to you. **ALL COPIES MUST BE IDENTICAL TO THE ORIGINAL.**

Your motion 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".

On the forms, fill in your criminal case number. Do not write in the blank for the civil action number.

If you wish to challenge judgments from different courts or judgments entered at different times in different cases, you must file a separate motion for each judgment. If you are challenging multiple convictions in a single indictment, you may file a single motion.

Answer all of the questions carefully. **FAILING TO PROVIDE THE INFORMATION REQUESTED MAY RESULT IN YOUR MOTION NOT BEING FILED OR CAUSE DELAYS IN PROCESSING YOUR MOTION.**

In your motion 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 motion 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 motion, they should be in the form of a separate memorandum.

The motion **must** be signed under oath by the person seeking relief.

Where to file

A motion under §2255 **must** be filed in the court where judgment was entered. In Maryland, there are two divisions of the federal court. When the forms are completed, mail the original and one copy to the division where your trial was held.

Clerk's Office
United States District Court
for the District of Maryland
Northern Division
101 West Lombard Street
Baltimore, Maryland, 21201

Clerk's Office
United States District Court
for the District of Maryland
Southern Division
6500 Cherrywood Lane
Greenbelt, Maryland 20770

There is no filing fee for a §2255 motion.

Things to know about representing yourself

There are specific procedural rules which apply to actions under 28 U.S.C. §2255. They are called the Rules Governing Section 2255 Proceedings For 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.

Once your motion is received by the Court it will be reviewed and, if you have properly completed the forms and provided all necessary information, a civil action number will be assigned. Your motion will then be forwarded to the judge who presided over your criminal trial. Everything that you receive from the Court about your case will have both your criminal case number on it and the new civil action number. Everything that you send to the Court other than the motion should have both numbers on it.

Unless directed otherwise, all communications to the Court about your case should be addressed to the Clerk of the Court.

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 motion 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 Assistant United States Attorney representing the government. It is important to include a certificate of service on anything you file 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

FORM TO BE USED BY A PERSON FILING A MOTION TO VACATE,
SET ASIDE, OR CORRECT A SENTENCE UNDER 28 U.S.C. §2255

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA,

v.

Criminal Case No.: _____

Civil Action No.: _____

(Leave blank. To be filled in by Court.)

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

MOTION TO VACATE, SET ASIDE, OR CORRECT SENTENCE

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) Guilty []
(c) Nolo Contendere []

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 from the judgment of conviction?

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 Appeals?

9. 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?

10. Other than a direct appeal, have you filed any petitions, applications, or motions challenging this judgment in any federal court?

Yes []

No []

11. If you answered yes, provide the following information for **each** petition, application, or motion:

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

B. Describe what you filed and the date on which it was filed.

C. What grounds did you raise?

D. What was the result?

E. What was the date of the decision?

F. Did you appeal the decision?

Yes [] No []

G. What was the result?

H. If you did not appeal any adverse decision, explain why you did not appeal.

12. Do you CURRENTLY HAVE PENDING in any 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.

13. In most cases federal law requires that a motion to vacate or set aside judgment be filed within one (1) year of the date your conviction became final. 28 U.S.C. § 2255. If this motion 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.

14. 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: _____

15. If any of the issues that you are raising in this motion have not been previously presented, explain which

issues are being raised for the first time and why.

16. 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 or motion attacking this sentence?

Yes [] No []

WHEREFORE, Movant 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 movant)

(address of movant)