

INSTRUCTIONS FOR FILING A HABEAS CORPUS PETITION UNDER 28 U.S.C. §2254

- These instructions are meant only to help you understand the forms and to explain some of the Court's procedures.
- The Court cannot give you legal advice or provide you with copies of cases or other legal materials.
- This packet contains two copies of a petition form and two copies of a motion to proceed in forma pauperis. You only have to file one copy of each with the Clerk. The extra copies are provided so that you may use them to make a copy of what you are filing.
- The Court does not have to provide copies to you and anything you file with the Court becomes a part of the official Court record.

Asking for the Filing Fee to be Waived

- The filing fee for a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254 in the United States District Court for the District of Maryland is \$5.00. The filing fee must be paid when you file the petition or you must file a motion to proceed in forma pauperis. A petition filed without either the filing fee or a motion to proceed in forma pauperis does not have to be accepted for filing.
- **PLEASE NOTE:** The affidavit you file in support of your motion to proceed in forma pauperis is a statement made UNDER OATH and must be accurate. You may be required to pay the full filing fee or your case may be dismissed if you do not include all requested information or the information provided is not correct.
- **IS THIS FORM FOR YOU?**
 - Use this form if:
 - You are currently in custody or will be in custody because of a STATE COURT judgment;
 - You want to allege your detention violates the Constitution, laws, or treaties of the United States; AND
 - You have not filed a petition concerning the same state court judgment previously in this Court.
 - **YOU MAY FILE ONLY ONE PETITION PER JUDGMENT.**
 - If you have already filed a habeas corpus petition under 28 U.S.C. §2254 challenging the same judgment and it was denied, you must file a motion with the United States Court of Appeals for the Fourth Circuit asking it to authorize this Court to consider a second or successive petition.
 - Unless the Fourth Circuit Court of Appeals authorizes this Court to consider your successive petition, this Court will not have jurisdiction to consider it.

Filling out the Petition Form

- You may either type your petition OR handwrite it so long as it is easily read. Documents filed with the Court that cannot be read do not have to be accepted for filing.
- If you need more space to provide any of the information requested, attach additional sheets of paper and indicate that you have done so on the petition form.
- Generally, the Respondents are the Warden or Administrator of the facility where you are confined and the Attorney General for the State of Maryland.
- Answer the questions on the petition form carefully and provide as much information as you can, including dates and case numbers.
- **INCLUDE ALL** the claims you wish to raise about the state court conviction that is the subject of your Petition. Remember:
 - Limit your petition to one state court conviction and file a separate petition for different convictions. Multiple counts of one conviction may be addressed in a single petition.
 - Any claim you raise in federal court about a state court conviction must have been considered in state court first. This means you raised the claim and appealed any denial of the claim up through the highest court. This is called exhaustion.
 - You are not required to provide legal citations, but if you wish to make legal arguments you may file a separate Memorandum of Law in support of your petition.
 - There are procedural rules that apply to Habeas Corpus Petitions. They are:
 - Rules Governing Habeas Corpus Cases Under Section 2254 In The United States District Courts
 - The Federal Rules of Civil Procedure, and
 - The Local Rules of this Court.
 - Request these rules from your prison librarian.
- In the last section you should state what you want the Court to do in the event judgment is entered in your favor. Money damages **ARE NOT** available in a habeas corpus action and if you ask for money damages your petition may be construed as a civil rights complaint.
- You **must** sign the petition **UNDER OATH**.
- Mail your completed Petition to:

The Clerk of the Court
101 W. Lombard Street
Baltimore, Maryland 21201

Representing Yourself

- Your petition will be reviewed by the Court to make certain it is filled out properly. If additional information is needed, you will be notified.
- A judge will be assigned and a case number will be provided for your case.
 - PUT YOUR CASE NUMBER ON ALL DOCUMENTS you send to the Clerk concerning your case.
- Everything you file in your case should be addressed to:

The 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 while your case is pending. Failing to do so may result in dismissal of your petition.
- **DO NOT** try to communicate directly with the judge assigned to your case.
- If you want to request that something be done in your case you must file a motion or other pleading with the Clerk.
- Exhibits or other documents already filed by the other party do not need to be filed again; rather, you simply refer to the document.
- You must sign all of the documents you file.
- Unless otherwise directed by the Court, you do not need to send a copy of everything you file in your case to counsel for Respondent, because the attorney can view your original submissions electronically from the docket.

Document1

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)