

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ALABAMA**

Name _____

Prison Number _____

Place of Confinement _____

Action No. _____

(To be supplied by Clerk of U. S. District Court)

_____(PETITIONER)

(Full name under which you were convicted)

v.

_____(RESPONDENT)

(Name of Warden, Superintendent, Jailor, or authorized person having custody of petitioner)

**PETITION FOR WRIT OF HABEAS CORPUS BY A
PERSON IN STATE CUSTODY**

Instructions - Read Carefully

- (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.
- (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, your petition will be filed if it is in proper order.
- (4) If you do not have the necessary filing fee, you may request permission to proceed in forma pauperis, in which event you must complete the "Motion to Proceed Without Prepayment of Fees and Costs" form mailed to you with this form, and have an authorized officer at the jail or prison complete the attached financial statement. The completed forms must be returned to the federal court clerk in Mobile.
- (5) Only convictions entered by one court at the same time may be challenged in a single petition. If you seek to challenge convictions entered by different courts in the same state or in different states, you must file separate petitions as to each court.

(6) Your attention is directed to the fact that 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 two copies must be mailed to the Clerk of the United States District Court whose address is 155 Saint Joseph Street, Mobile, Alabama 36602.

(8) Petitions which do not conform to these instructions will be returned with a notation as to the deficiency.

(9) You must immediately advise the Court of any change in your address, e.g., if you are released, transferred, moved, etc. Failure to notify the Court of your new address will result in the dismissal of this petition for failure to prosecute and to obey the Court's order.

PETITION

1. Name and location of court which entered the judgment of conviction under attack: Circuit Court of _____ County, Alabama; Case Number _____;

Judge _____. Other court, and case number, if not Circuit Court: _____.

2. Date of judgment of conviction _____

3. Length of sentence _____

4. Nature of offense involved (all counts) _____

5. What was your plea? (Check one)

(a) Not guilty _____

(b) Guilty _____

(c) Nolo contendere _____

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 _____

9. If you did not appeal, explain briefly why you did not: _____

10. If you did appeal, answer the following:

(a) Name of court _____

(b) Result _____

(c) Date of result _____

(d) Did you file a petition for rehearing?

Yes _____ No _____; if yes, what was the result? _____

When did the court rule on your petition? _____

(e) Did you file a petition for certiorari?

Yes _____ No _____; if yes, what was the result? _____

When did the court rule on your petition? _____

11. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions (Rule 20, Rule 32, Error Coram Nobis, Habeas Corpus), applications, or motions with respect to this judgment in any state court?

Yes _____ No _____

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

(a)(1) Name of court _____ Date filed _____

(2) Nature of proceeding (Rule 32, Rule 20, etc.) _____

(3) Grounds raised _____

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

Yes _____ No _____

(5) Result _____

(6) Date of result _____

(b) As to any second petition, application or motion, give the same information:

(1) Name of court _____ Date filed _____

(2) Nature of proceeding _____

(3) Grounds raised _____

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

Yes _____ No _____

(5) Result _____

(6) Date of result _____

(c) As to any third petition, application or motion, give the same information:

(1) Name of court _____ Date filed _____

(2) Nature of proceeding _____

(3) Grounds raised _____

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

Yes _____ No _____

(5) Result _____

(6) Date of result _____

(d) Did you appeal the result of action taken on any petition, application or motion to the highest state court having jurisdiction?

(1) First petition, etc. Yes _____ No _____

Date filed _____ Result _____

Date of result _____

(2) Second petition, etc. Yes _____ No _____

Date filed: _____ Result: _____

Date of result _____

(3) Third petition, etc. Yes _____ No _____

Date filed _____ Result _____

Date of result _____

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

13. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

Caution: In order to proceed in the federal court, you must first exhaust your state court

remedies as to each ground on which you request action by the federal court. Also, if you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed if you have exhausted your state court remedies with respect to them. However, you should raise in this petition all available grounds (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (I) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one: _____

1. Supporting FACTS (tell your story briefly without citing cases or law): _____

2. Did you raise this claim before the state courts on:

Direct appeal: Yes _____ No _____

Rule 20/32 Petition: Yes _____ No _____

Error Coram Nobis: Yes _____ No _____

State Habeas Corpus: Yes _____ No _____

3. If you did not raise this claim before the state courts, tell why you did not: _____

B. Ground two: _____

1. Supporting FACTS (tell your story briefly without citing cases or law): _____

2. Did you raise this claim before the state courts on:

Direct appeal: Yes _____ No _____

Rule 20/32 Petition: Yes _____ No _____

Error Coram Nobis: Yes _____ No _____

State Habeas Corpus: Yes _____ No _____

3. If you did not raise this claim before the state courts, tell why you did not: _____

C. Ground three _____

1. Supporting FACTS (tell your story briefly without citing cases or law): _____

2. Did you raise this claim before the state courts on:

Direct appeal: Yes _____ No _____

Rule 20/32 Petition: Yes _____ No _____

Error Coram Nobis: Yes _____ No _____

State Habeas Corpus: Yes _____ No _____

3. If you did not raise this claim before the state courts, tell why you did not: _____

D. Ground four: _____

1. Supporting FACTS (tell your story briefly without citing cases or law): _____

2. Did you raise this claim before the state courts on:

Direct appeal: Yes _____ No _____

Rule 20/32 Petition: Yes _____ No _____

Error Coram Nobis: Yes _____ No _____

State Habeas Corpus: Yes _____ No _____

3. If you did not raise this claim before the state courts, tell why you did not: _____

14. A. Have any of the grounds listed in this present habeas corpus petition ever been raised by you in any other federal habeas corpus petition? Yes _____ No _____. If yes, which grounds? _____

State the name and case number of your previous federal habeas corpus petition: _____

B. Have you previously filed a habeas corpus petition attacking this present conviction in this or any other federal court? Yes _____ No _____. If yes, state the name and case number of your previous federal habeas corpus petition: _____

15. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack? Yes _____ No _____. If yes, name the court: _____

and state the name and case number of the petition or appeal: _____

16. 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 _____

17. 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 _____

18. 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 which imposed sentence to be served in the future:

(b) And give date and length of sentence to be served in the future: _____

(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 _____

19. **TIMELINESS OF PETITION:** This petition is subject to a one-year statute of limitations contained in The Antiterrorism and Effective Death Penalty Act of 1996 (“AEDPA”), 28 U.S.C. § 2244(d):

(1) A one-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,

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

Signature of Attorney (if any)

Typed or printed name of attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed and delivered to custodial authorities for mailing on _____

(date)

Signature of Petitioner

Current mailing address

