

**PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2254
BY A PERSON IN STATE CUSTODY**

INSTRUCTIONS---READ CAREFULLY

1. **Use This Form** – If you are a person currently serving or will serve a sentence entered by a state court and you are asking for relief from the conviction or the sentence.

Do Not Use This Form – *IF YOU ARE CHALLENGING YOUR FEDERAL CONVICTION OR SENTENCE. INSTEAD, USE THE FORM ENTITLED “MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT SENTENCE BY A PERSON IN FEDERAL CUSTODY.” IF 28 U.S.C. § 2255 IS INADEQUATE OR INEFFECTIVE TO TEST THE LEGALITY OF YOUR DETENTION, USE THE FORM ENTITLED “APPLICATION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241 BY A PERSON IN CUSTODY.”

*IF YOU ARE A PRETRIAL DETAINEE CHALLENGING YOUR PRE-CONVICTION CUSTODY, A FEDERAL PRISONER CHALLENGING THE EXECUTION OF YOUR SENTENCE OR AN ACTION TAKEN BY THE BUREAU OF PRISONS, OR A PERSON IN CUSTODY CHALLENGING AN IMMIGRATION-RELATED ORDER (OTHER THAN A REMOVAL ORDER), OR IN OTHER SITUATIONS WHERE RELIEF IS NOT AVAILABLE UNDER 28 U.S.C. § 2254 OR 28 U.S.C. § 2255, OR IF 28 U.S.C. § 2255 IS INADEQUATE OR INEFFECTIVE TO TEST THE LEGALITY OF YOUR DETENTION, USE THE FORM ENTITLED “APPLICATION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241 BY A PERSON IN CUSTODY.”

2. **Readable** – You may either type or neatly handwrite the information on the following form. It must be readable.
3. **Signed Under Penalty of Perjury** – To submit your petition, it must be signed. Your signature indicates that the petition is signed "under penalty of perjury." This means that any false statement of a material fact presented in your petition may serve as a basis for prosecution and conviction for perjury. Your signature does **not** have to be witnessed by a notary public. The petition may also be signed by a person authorized to sign it for you, such as an attorney.
4. **Copies and Proper Court** – When the petition is fully completed, you must mail the **original** to: Clerk of Court, United States District Court for the Eastern District of Wisconsin, 517 East Wisconsin Avenue, Milwaukee, WI 53202.
5. **All Grounds** – You must include all grounds for relief in this petition and the facts supporting each ground for relief. If you fail to do so, you may be prevented from presenting additional grounds at a later date.
6. **Legal Citations and Arguments** – You must answer all applicable questions. However, you should not cite to legal authorities (i.e., case law or statutes) **on this form**. If you submit a supporting memorandum in addition to this form, it must not exceed fifteen (15) pages. Excess pages will not be considered.
7. **Fee** – You must either (a) pay the filing fee of \$5.00 or (b) if you do not have the \$5.00, you may request permission to proceed *in forma pauperis* (as a poor person), in which event you must complete and sign the petition and affidavit attached to this petition and have an authorized officer at the penal institution complete and sign the attached certificate. You must also have an authorized officer attach a printout of your prison trust account statement activity for the six months prior to the filing of your petition.
8. **Dodge Correctional Institution, Green Bay Correctional Institution, Waupun Correctional Institution, and Wisconsin Secure Program Facility Inmates** – You must submit all correspondence and case filings, including the habeas petition and any *in forma pauperis* petition, to institution staff for filing pursuant to the Prisoner E-Filing Program.

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

_____, Petitioner,
Full Name (under which you were convicted)

Prisoner Number

Place of Confinement

vs.

_____, Respondent.
Authorized Person Having Custody of Petitioner

Docket No. _____
(to be supplied by Clerk)

**PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2254
BY A PERSON IN STATE CUSTODY**

Caution: THIS IS NOT THE FORM TO BE USED, IF YOU CLAIM THAT YOUR FEDERAL SENTENCE OR CONVICTION IS UNLAWFUL, OR IF YOU ARE A PRETRIAL DETAINEE CHALLENGING YOUR PRECONVICTION CUSTODY, A FEDERAL PRISONER CHALLENGING THE EXECUTION OF YOUR SENTENCE OR AN ACTION TAKEN BY THE BUREAU OF PRISONS, OR A PERSON IN CUSTODY CHALLENGING AN IMMIGRATION-RELATED ORDER.

I. SUBJECT OF THIS PETITION

A. Name and location of the state court that entered the judgment of conviction which you are challenging

B. Criminal docket or case number _____

C. Date of the judgment of conviction _____

D. Date of sentencing _____

E. Length of sentence _____

F. In this case, were you convicted on more than one count or of more than one crime?

Yes No

G. Identify all crimes of which you were convicted and sentenced in this case

H. What was your plea? (*Check one*)

Not guilty Guilty Insanity plea Nolo contendere (*no contest*)

If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to?

I. If you went to trial, what kind of trial did you have? (*Check one*)

Jury Judge only

SUBJECT OF THIS PETITION - *continued*

J. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

- Yes No

If yes, state the type(s) of hearing or proceeding

II. DIRECT STATE APPEAL OF CONVICTION

A. Did you appeal from the judgment of conviction?

- Yes No

If yes, attach the decision(s) that resolved your appeal and answer the following questions:

1. Date of filing appeal _____

2. Grounds raised _____

3. Result _____

4. Date _____

B. Did you seek further review by the highest state court?

- Yes No

If yes, attach the decision(s) that resolved your petition for review and answer the following questions:

1. Date of filing of petition for review _____

2. Grounds raised _____

3. Result _____

4. Date _____

DIRECT STATE APPEAL OF CONVICTION - continued

C. Did you file a petition for certiorari in the United States Supreme Court?

- Yes No

If yes, attach the decision(s) that resolved your petition for certiorari and answer the following questions:

1. Date of filing petition for certiorari _____
2. Grounds raised _____

3. Result _____
4. Date _____

III. STATE POST-CONVICTION RELIEF OTHER THAN DIRECT APPEAL

A. Other than the appeals listed above in Section II, have you previously filed any other state petitions, applications, or motions concerning **this** state judgment of conviction?

- Yes No

If yes, attach the decision(s) that resolved your application for state post-conviction relief and answer the following questions:

1. Name of court _____
2. Docket or case number _____
3. Date of filing _____
4. Type of petition, application, or motion filed _____
5. Grounds raised _____

6. Did you receive a hearing where evidence was given on your petition, application, or motion?
 Yes No
7. Result _____

STATE POST-CONVICTION RELIEF OTHER THAN DIRECT APPEAL- *continued*

8. Date _____
9. Did you appeal to the highest state court having jurisdiction over the action taken on your first state petition, application, or motion?
- Yes No
- B. If you filed a second petition, application, or motion, attach the decision and answer the following questions:
1. Name of court _____
2. Docket or case number _____
3. Date of filing _____
4. Type of petition, application, or motion filed _____
5. Grounds raised _____
- _____
- _____
6. Did you receive a hearing where evidence was given on your petition, application, or motion?
- Yes No
7. Result _____
8. Date _____
9. Did you appeal to the highest state court having jurisdiction over the action taken on your second state petition, application, or motion?
- Yes No
- _____
- _____
- C. If you filed a third petition, application, or motion, attach the decision and answer the following questions:
1. Name of court _____
2. Docket or case number _____
3. Date of filing _____

STATE POST-CONVICTION RELIEF OTHER THAN DIRECT APPEAL- *continued*

4. Type of petition, application or motion filed _____
5. Grounds raised _____

6. Did you receive a hearing where evidence was given on your petition, application, or motion?
 Yes No
7. Result _____
8. Date _____
9. Did you appeal to the highest state court having jurisdiction over the action taken on your third state petition, application, or motion?
 Yes No

IV. GROUNDS FOR RELIEF

For this petition, state **every** ground supporting your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. If you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court.

Ground One _____

Supporting **FACTS** (*Briefly summarize the facts without citing cases or law.*)

PRIOR FEDERAL CHALLENGES - *continued*

2. Docket or case number _____

3. Date of filing _____

4. Type of petition, application, or motion filed _____

5. Grounds raised _____

6. Did you receive a hearing where evidence was given on your petition, application, or motion?

Yes No

7. Result _____

8. Date _____

9. Did you appeal the action taken on your first federal petition, application, or motion to a federal court of appeals?

Yes No

If yes, attach the decision(s) that resolved your appeal and answer the following questions:

a. Name of court _____

b. Docket or case number _____

c. Date of filing _____

d. Type of petition, application, or motion filed _____

e. Grounds raised _____

PRIOR FEDERAL CHALLENGES - *continued*

f. Result _____

g. Date _____

B. Did you file a petition for certiorari in the United States Supreme Court?

Yes No

If yes, attach the decision(s) that resolved your petition for certiorari and answer the following questions:

1. Date of filing petition for certiorari _____

2. Grounds raised _____

3. Result _____

4. Date _____

VI. REPRESENTATION

A. Give the name and address of each attorney who represented you in the following:

1. At preliminary hearing _____

2. At arraignment and plea hearing _____

3. At trial _____

4. At sentencing _____

5. On direct appeal _____

REPRESENTATION - continued

6. In any state post-conviction proceeding _____

7. On appeal from any ruling against you in a state post-conviction proceeding _____

VII. REQUEST FOR RELIEF

State exactly what you want the court to do for you.

VIII. DECLARATION UNDER PENALTY OF PERJURY

I, the undersigned, hereby declare under penalty of perjury that the foregoing information is true and correct.

Signed this _____ day of _____, 20 _____.

Signature of Petitioner

(Signature of lawyer, if any)

If you are signing the petition and are not the petitioner, state your relationship to the petitioner and explain why the petitioner is not signing this petition.

IX. CERTIFICATE OF INMATE MAILING - *Optional*

If you deposit your petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 in your prison/institutional/jail mailing system and attach first-class postage pre-paid, and complete and sign this statement, you will establish the filing date as the date of deposit in that mailing system.

I, the undersigned, hereby declare under penalty of perjury that I placed this petition for a writ of habeas corpus under 28 U.S.C. § 2254 in the prison/institutional/jail mailing system with prepaid, first-class postage on _____.
(month, day, year)

Signed this _____ day of _____, 20_____.

Signature of Petitioner

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

Plaintiff or Petitioner (full name)

v.

Case No. _____
(to be supplied by Clerk)

Defendant(s) or Respondent(s) (full name)

**PRISONER'S PETITION AND AFFIDAVIT TO PROCEED
WITHOUT PREPAYMENT OF FEES AND/OR COSTS**

THIS FORM IS FOR PRISONERS ONLY.

The cost of filing nearly every civil action is \$400.00. This includes the \$350.00 statutory filing fee and a \$50.00 administrative fee. If you cannot afford this \$400.00 fee you may ask permission to proceed without the prepayment of fees and/or costs by completing this form, the attached authorization, and providing the court with a certified copy of your institutional trust account statement for the past six months. The court will review your trust account statement and calculate the amount you must pay for your case to proceed. After you pay this initial partial filing fee, the court will review your complaint to determine whether it is sufficient to proceed. Every month, the prison will automatically deduct 20% of your monthly income from your institutional trust account. The money will be forwarded to the court to be paid towards the remainder of the \$350.00 statutory filing fee. These automatic deductions will continue until the \$350.00 statutory filing fee is paid in full. Prisoners granted permission to proceed without the prepayment of fees and/or costs do not have to pay the \$50.00 administrative fee.

The filing fee for a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 or 2254 is \$5.00. If you are unable to pay this \$5.00 filing fee, complete this form, the attached authorization, and provide the court with a certified copy of your institutional trust account statement for the past six months. If the court finds that you are unable to pay the \$5.00 filing fee, the court will grant your petition to proceed without prepayment of fees and/or costs and you will not have to prepay the \$5.00 fee.

If you are filing a motion to vacate, set aside, or correct a sentence pursuant to 28 U.S.C. § 2255, there is no filing fee. However, you may want to complete and return this form and the attached authorization, and provide the court with a certified copy of your institutional trust account statement for the past six months if you believe you will be unable to pay other costs associated with your case such as the cost of obtaining transcripts.

1. What type of case are you filing? _____
(e.g. civil rights, petition for a writ of habeas corpus, etc.)

2. Are you currently married? Yes No

3. If you and/or your spouse have any of the following assets, provide details:

| Type of Asset | Approximate Value |
|--|-------------------|
| Bank account (checking, savings, money market etc.) | \$ |
| Retirement account (IRA, 401(k), 403(b), pension, etc.) | \$ |
| Investments (certificate of deposit, stocks, securities, bonds, mutual funds, exchange traded funds, etc.) | \$ |
| Real estate (house, apartment building, condo, lots, etc.) | \$ |
| Other valuable assets (motor vehicles, boats, jewelry, art work, collectibles, etc.) | \$ |

Are there any other circumstances that you would like the court to consider when reviewing your request to proceed without prepayment of costs and/or fees?

I, _____, declare that I am the plaintiff or petitioner in the above-named action. In support of my request to proceed in forma pauperis, I declare that I am unable to pay the fees and/or costs of these proceedings and that I believe I am entitled to the relief sought in the present complaint, petition, or motion. I understand that a false statement may result in a dismissal of my claims. I answer the following questions fully, truthfully, and under penalty of perjury. 28 U.S.C. § 1746; 18 U.S.C. § 1621.

Institutional Identification Number: _____

Signature: _____

Date: _____

This form does not need to be notarized.

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

Plaintiff or Petitioner (full name)

v.

Case No. _____
(to be supplied by Clerk)

Defendant(s) or Respondent(s) (full name)

**AUTHORIZATION FOR RELEASE OF INSTITUTIONAL ACCOUNT INFORMATION
AND PAYMENT OF THE FILING FEE**

I, _____, _____,
(your name) (institutional identification number)

hereby authorize the court to obtain from the agency having custody of me, information about my institutional trust account, including balances, deposits, and withdrawals over the prior six months.

I further authorize the agency or facility having custody of me to continue to disclose information about my institutional trust account, including balances, deposits, and withdrawals to the court until the filing fee in this matter is paid in full.

I further authorize the agency or facility having custody of me to withdraw funds from my institutional trust account in accordance with 28 U.S.C. § 1915 and to forward these funds to the court for payment of any filing fee.

Signature: _____

Date: _____

This form does not need to be notarized.