

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA**

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

1. To use this form, you must be a person currently serving a sentence under a judgment against you in **state court**. If you wish to challenge the validity of a **federal judgment** of conviction and sentence, you should **not** use this form and instead file a motion under 28 U.S.C. § 2255 in the federal court which entered the judgment.
2. You may also use this form to challenge a state court judgment that imposed a sentence to be served in the future, but you must fill in the name of the state where the judgment was entered.
3. This petition must be legibly handwritten or typewritten and signed by the petitioner under penalty of perjury. If you make a false statement of a material fact, you may be prosecuted for perjury.
4. All questions must be answered concisely in the proper space on the form. If needed, you may attach additional pages. If you attach additional pages, number the pages and identify which section of the petition is being continued. Do NOT write on the back of any page.
5. Do not use this form unless you were convicted in a state court in one of the following Alabama counties: BIBB, BLOUNT, CALHOUN, CHEROKEE, CLAY, CLEBURNE, COLBERT, CULLMAN, DEKALB, ETOWAH, FAYETTE, FRANKLIN, GREENE, JACKSON, JEFFERSON, LAMAR, LAUDERDALE, LAWRENCE, LIMESTONE, MADISON, MARION, MARSHALL, MORGAN, PICKENS, SHELBY, ST. CLAIR, SUMTER, TALLADEGA, TUSCALOOSA, WALKER, or WINSTON.
6. In order for your petition to be filed, it must be accompanied by the \$5.00 filing fee. If you are unable to pay the filing fee, you may petition the court to proceed as an indigent party. An Application to Proceed *In Forma Pauperis* is included with this petition.
7. No more than one petitioner may be named in a petition. Each petitioner must file a separate petition and pay the filing fee or submit an Application to Proceed *In Forma Pauperis*.
8. Only judgments entered by one court may be challenged in a single petition. If you seek to challenge judgments entered by different courts, you must file separate petitions as to each court.
9. You must include in this petition all grounds for relief from the conviction or sentence that you challenge, and you must state the facts that support each ground. If you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.
10. Capital Cases: If you are under a sentence of death and are indigent, you may be entitled to the assistance of counsel and should request the appointment of counsel.
11. You must immediately notify the court in writing of any change of address. If you do not, the court may dismiss your case.
12. Mail the original petition and the filing fee of \$5.00 or an Application to Proceed *In Forma Pauperis* to the following address: Clerk's Office, United States District Court, Northern District of Alabama, Room 140, Hugo L. Black U.S. Courthouse, 1729 5th Avenue North, Birmingham, AL 35203-2195 or Clerk's Office, United States District Court, Northern District of Alabama, 101 Holmes Avenue, Huntsville, AL 35801.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA**

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

_____)
)
 Plaintiff-Petitioner)
 (*Full name under which you were convicted*))
)
 Place of) Civil Action No. _____
 Confinement: _____) (*to be filled in by the*
) *Clerk's Office*)
 Prisoner No.: _____)
)
 -v-)
)
)
 _____)
 Respondent)
 (*Name of Warden, Superintendent, Jailer, or authorized person*)
 (*having custody of petitioner.*))
)
 and)
)
)
 THE ATTORNEY GENERAL OF THE STATE OF ALABAMA)

PETITION

1. (a) Name and location of court that entered the judgment of conviction you are challenging. Do not use this form unless you were convicted in one of the following counties: BIBB, BLOUNT, CALHOUN, CHEROKEE, CLAY, CLEBURNE, COLBERT, CULLMAN, DEKALB, ETOWAH, FAYETTE, FRANKLIN, GREENE, JACKSON, JEFFERSON, LAMAR, LAUDERDALE, LAWRENCE, LIMESTONE, MADISON, MARION, MARSHALL, MORGAN, PICKENS, SHELBY, ST. CLAIR, SUMTER, TALLADEGA, TUSCALOOSA, WALKER, WINSTON.

- (b) Criminal docket or case number (if you know): _____
2. (a) Date of the judgment of conviction (if you know): _____
- (b) Date of Sentencing: _____

3. Length of Sentence: _____

4. In this case, were you convicted on more than one count or more than one crime? Yes No

5. Identify all crimes of which you were convicted and sentenced in this case: _____

6. (a) What was your plea? (Check one)

(1) Not guilty (3) Nolo contendere (no contest)

(2) Guilty (4) Insanity plea

(b) 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? _____

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

Jury Judge only

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

Yes No

8. Did you appeal from the judgment of conviction?

Yes No

9. If you did appeal, answer the following:

(a) Name of court: _____

(b) Docket or case number (if you know): _____

(c) Result: _____

(d) Date of Result (if you know): _____

(e) Citation to the case (if you know): _____

(f) Grounds raised: _____

(g) Did you seek further review by a higher state court? Yes No

If yes, answer the following:

(1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Result: _____

(4) Date of result (if you know): _____

(5) Citation to the case (if you know): _____

(6) Grounds raised: _____

(h) Did you file a petition for certiorari in the United States Supreme Court? Yes No

If yes, answer the following:

(1) Docket or case number (if you know): _____

(2) Result: _____

(3) Date of result (if you know): _____

(4) Citation to the case (if you know): _____

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court? Yes No

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(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 of result (if you know): _____

(b) If you filed any second petition, application, or motion, given the same information:

(1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(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 of result (if you know): _____

(c) If you filed any third petition, application, or motion, give the same information:

(1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(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 of result (if you know): _____

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

(1) First petition: Yes No

(2) Second petition: Yes No

(3) Third petition: Yes No

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not: _____

12. For this petition, state *concisely* every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. 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. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date in a second or successive habeas corpus petition.

GROUND ONE: _____

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim):

(b) If you did not exhaust your state remedies on Ground One, explain why: _____

(c) **Direct Appeal of Ground One:**

(1) If you appealed from the judgment of conviction, did you raise this issue: Yes No

(2) If you did not raise this issue in your direct appeal, explain why: _____

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court: Yes No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition? Yes No

(4) Did you appeal from the denial of your motion or petition? Yes No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise the issue: _____

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: _____

GROUND TWO: _____

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim):

(b) If you did not exhaust your state remedies on Ground Two, explain why: _____

(c) **Direct Appeal of Ground Two:**

(1) If you appealed from the judgment of conviction, did you raise this issue: Yes No

(2) If you did not raise this issue in your direct appeal, explain why: _____

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court: Yes No

(2) If your answer to Question (d)(1) is “Yes,” state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court’s decision: _____

Result (attach a copy of the court’s opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition? Yes No

(4) Did you appeal from the denial of your motion or petition? Yes No

(5) If your answer to Question (d)(4) is “Yes,” did you raise this issue in the appeal?

Yes No

(6) If your answer to Question (d)(4) is “Yes,” state:

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court’s decision: _____

Result (attach a copy of the court’s opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is “No,” explain why you did not raise the issue: _____

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two: _____

GROUND THREE: _____

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim):

(b) If you did not exhaust your state remedies on Ground Three, explain why: _____

(c) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue: Yes No

(2) If you did not raise this issue in your direct appeal, explain why: _____

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court: Yes No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition? Yes No

(4) Did you appeal from the denial of your motion or petition? Yes No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise the issue: _____

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three: _____

GROUND FOUR: _____

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim):

(b) If you did not exhaust your state remedies on Ground Four, explain why: _____

(c) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue: Yes No

(2) If you did not raise this issue in your direct appeal, explain why: _____

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court: Yes No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition? Yes No

(4) Did you appeal from the denial of your motion or petition? Yes No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise the issue: _____

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: _____

13. Please answer these additional questions about the petition you are filing:

(a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? Yes No

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them: _____

(b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them: _____

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? Yes No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available. _____

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? Yes No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised. _____

16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At the 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 ruling against you in a post-conviction proceeding: _____

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

(b) Give the date the other sentence was imposed: _____

(c) Give the length of the other sentence: _____

Therefore, petitioner asks that the court grant the following relief: _____

or any other relief to which petitioner may be entitled.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison on _____ (month, date, year).

Executed (signed) on _____
(date)

Signature of Petitioner

FOR USE BY INCARCERATED PERSONS

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

APPLICATION TO PROCEED IN FORMA PAUPERIS

Declaring that the personal and financial information I have given below is true and correct, I apply to this court for authority to proceed with this case without prepayment of fees, costs, or security.

1. Your full name: _____
Present mailing address: _____

2. Are you presently employed? Yes No
If the answer is "Yes," give the name and address of your employer and the amount of your usual monthly salary or wages.
Name and Address: _____

Amount of earnings: \$ _____ per (*specify pay period*) _____

If the answer is "No," give the name and address of your last employer, when you last worked, and the amount of the monthly salary or wages you were receiving.
Name and Address: _____

Date last worked: _____

Amount of earnings: \$ _____ per (*specify pay period*) _____

3. Have you received within the past twelve months any money from any of the following sources?

- | | | |
|--|------------------------------|-----------------------------|
| (a) Business, profession, or any form of self-employment? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (b) Interest, dividends, rents or investment income of any kind? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (c) Pensions, annuities, or life insurance payments? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (d) Gifts or inheritances? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (e) Any other sources? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

If the answer to any of the above is "Yes," describe each source of money and state the amount received from each during the past twelve months: _____

4. Do you own cash, or do you have any money in any checking or saving accounts, including your prison or jail account? Yes No

If the answer is "yes," state the total amount: \$ _____

5. Do you own any real estate, stocks, bonds, notes, automobiles, boats, or other valuable property (excluding ordinary household items and clothing)? Yes No

If the answer is "Yes," describe the property and state its approximate value: _____

6. List the persons who are dependent upon you for support, stating your relationship to them and how much you contribute toward their support: _____

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

Dated: _____

Signature of Petitioner

Address

Prisoner Number

★★★ IMPORTANT NOTICE ★★★

Your application to proceed *in forma pauperis* is NOT COMPLETE and WILL NOT BE CONSIDERED by the court unless the page entitled "INFORMATION REGARDING PRISONER ACCOUNTS" is properly completed and certified.

INFORMATION REGARDING PRISONER ACCOUNTS

The Prison Litigation Reform Act, Pub. L. No. 104-134, § 804, requires a prisoner seeking to proceed *in forma pauperis* to submit information regarding his prison or jail trust account for the six (6) months preceding the filing of the complaint. This information must be obtained from the appropriate official of each prison or institution at which the prisoner is or was confined within the past six (6) months. This information **must** be certified by prison or jail personnel and **must** include **both** the total deposits made to the prisoner's account each and every month for the preceding six (6) months and the average monthly balance in the account each and every month during the preceding six (6) months. Information for **six (6) full months** must be provided.

CERTIFICATION

I hereby certify that prisoner _____ has been incarcerated in this institution since _____, _____, and that the prisoner has the sum of \$_____ in his/her prison or jail trust account on this the _____ day of _____. I further certify that the information provided below is true and correct.

	<u>Month/Year</u>	<u>Total Deposits Received</u>	<u>Average Account Balance</u>
Month 1	_____	\$_____	\$_____
Month 2	_____	\$_____	\$_____
Month 3	_____	\$_____	\$_____
Month 4	_____	\$_____	\$_____
Month 5	_____	\$_____	\$_____
Month 6	_____	\$_____	\$_____
Current month (if less than full month)	_____	\$_____	\$_____

Dated: _____

Signature of Authorized Officer of Institution

Name of Institution