

INSTRUCTIONS FOR FILING
PETITION UNDER 28 U.S.C. § 2241 FOR WRIT OF HABEAS CORPUS
IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

- (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. Do NOT write on the back of any page.
- (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. The \$5 fee must be submitted with the petition, not separately.
- (4) If you do not have the necessary funds for transcripts, counsel, appeal, and other costs connected with a motion of this type, you may request permission to proceed in forma pauperis, in which event you must execute the form provided by the Court, setting forth information establishing your inability to pay the costs. If you wish to proceed in forma pauperis, you **MUST** have an authorized officer at the penal institution complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution.
- (5) Only the execution of one sentence may be challenged in a single petition. If you seek to challenge the execution of sentences in the same state or in different states, you must file separate petitions as to each sentence.
- (6) You must include all grounds for relief and all facts supporting such grounds for relief in the petition you file seeking relief from any execution of sentence.
- (7) When the petition is fully completed, the original and at least two copies must be mailed to: Clerk of U.S. District Court, Room 4290, 880 Front Street, San Diego CA 92101-8900.

NAME

PRISON NUMBER

PLACE OF CONFINEMENT

ADDRESS

United States District Court
Southern District Of California

(FULL NAME OF PETITIONER)

Petitioner

v.

(NAME OF WARDEN, SUPERINTENDENT, JAILOR, OR AUTHORIZED
PERSON HAVING CUSTODY OF PETITIONER, E.G. PAROLE OFFICER)

Respondent

and

The Attorney General of the State of
California, Additional Respondent.

Civil No. _____
(TO BE FILLED IN BY CLERK OF U.S. DISTRICT COURT)

PETITION FOR WRIT OF HABEAS CORPUS

UNDER 28 U.S.C. § 2241

1. Type of challenge (CHECK ONE):

- Parole
- Probation
- Loss of good-time credits
- Prison disciplinary hearing
- Other (specify): _____

2. Have you previously filed any petitions, applications, or motions with respect to the execution of your sentence in any court, state or federal?

Yes No

3. If your answer to 2 was "Yes," give the following information:

(a)(1) Name of court _____

(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 _____

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

(1) Name of court _____

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

(1) First petition, etc. Yes No

(2) Second petition, etc. Yes No

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

4. State *concisely* every ground on which you claim that you are being held in violation of the constitution, law or treaties of the United States. 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 ordinarily first exhaust your available state court remedies as to each ground on which you request action by the federal court. Moreover, if you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

You should *raise in this petition all available grounds* on which you base your allegations that you are being held in custody unlawfully.

5. If any of the grounds listed in 4A, B, C, and D were not previously presented in any other court, state or federal, state briefly what grounds were not presented, and give your reasons for not presenting them:

6. Do you have any petition or appeal now pending in any court, either state or federal, as to the execution of sentence under attack?
 Yes No

7. Give the name and address, if known, of each attorney who represented you in the following stages of the execution of sentence attacked herein:

(a) In any post-conviction proceeding _____

(b) On appeal from any adverse ruling in a post-conviction proceeding _____

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

SIGNATURE OF ATTORNEY (IF ANY)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

(DATE)

SIGNATURE OF PETITIONER

FORM D

PROOF OF SERVICE BY A PERSON IN STATE CUSTODY

PROOF OF SERVICE BY MAIL

BY PERSON IN STATE CUSTODY

(Fed. R. Civ. P. 5; 28 U.S.C. § 1746)

I, _____, declare:

I am over 18 years of age and a party to this action. I am a resident of _____

_____ Prison,

in the county of _____,

State of California. My prison address is: _____,

_____.

On _____,

(DATE)

I served the attached: _____

(DESCRIBE DOCUMENT)

on the parties herein by placing true and correct copies thereof, enclosed in a sealed envelope, with postage thereon fully paid, in the United States Mail in a deposit box so provided at the above-named correctional institution in which I am presently confined. The envelope was addressed as follows:

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on _____

(DATE)

(DECLARANT'S SIGNATURE)