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## PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2254

### (Petition for Relief from a Conviction or Sentence by a Person in State Custody)

#### Instructions

1. To use this form, you must be a person who is currently serving a sentence under a judgment against you in a state court. You are asking for relief from the conviction or the sentence. This form is your petition for relief.
2. You may also use this form to challenge a state 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. If you want to challenge a federal judgment that imposed a sentence to be imposed in the future, you should file a motion under 28 U.S.C. § 2255 in the federal court that entered the judgment.
3. Make sure the form is typed or neatly written.
4. You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
5. Answer all the questions. You do not need to cite law. You may submit additional pages if necessary. If you do not fill out the form properly, you will be asked to submit additional or correct information. If you want to submit a brief or arguments, you must submit them in a separate memorandum. Note that any written submissions must comply with the Local Rules of the District of Oregon.
6. **You must pay a fee of \$5.** If the fee is paid, your petition will be filed. If you cannot pay the fee, you may ask for an Application to Proceed *In Forma Pauperis*. Also, you must submit a certificate signed by an officer at the institution where you are confined showing the amount of money that the institution is holding for you.
7. In this petition, you may challenge the judgment entered by only one court. If you want to challenge a judgment entered by a different court (either in the same state or in different states), you must file a separate petition.
8. When you have completed the form, **send the original and one (1) additional copy** to:

Clerk of Court  
U.S. District Court, District of Oregon  
1000 SW Third Avenue, Suite 740  
Portland, OR 97204-2902

If you want a file-stamped copy of the petition, you must enclose an additional copy of the petition and ask the Court to file-stamp it and return it to you. If you are incarcerated at Snake River Correctional Institution, you must comply with the requirements of the E-Filing Pilot posted at the institution and set forth in Standing Order 2017-9.

9. **Notification Regarding Address Changes.** It is important that you indicate your current address and state offender identification number ("SID") on your petition. If your address changes during the course of this proceeding, you must give written notification to the Court and opposing counsel of your new address. The notification should include the case number and be labeled "Notice of Change of Address." Failure to keep the Court advised of your current address may result in dismissal of your action.
10. **CAUTION:** You must include in this petition all the grounds for relief from the conviction or sentence that you challenge. 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.
11. **CAPITAL CASES:** If you are under a sentence of death, you are entitled to the assistance of counsel and should request the appointment of counsel.



**EXHAUSTION OF STATE REMEDIES**

***DIRECT APPEAL***

9. Did you directly appeal from the judgment of conviction?

Yes

No

a. Name of court: \_\_\_\_\_

b. Docket or case number (if known): \_\_\_\_\_

c. Result: \_\_\_\_\_

d. Date of result and citation (if known): \_\_\_\_\_

e. Grounds raised:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10. Did you seek further review of the decision on appeal by a higher state court?

Yes

No

a. Name of court: \_\_\_\_\_

b. Docket or case number (if known): \_\_\_\_\_

c. Result: \_\_\_\_\_

d. Date of result and citation (if known): \_\_\_\_\_

e. Grounds raised:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

Yes

No

- a. Docket or case number (if known): \_\_\_\_\_
- b. Result: \_\_\_\_\_
- c. Date of result and citation (if known): \_\_\_\_\_
- d. Grounds raised:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12. If you did not directly appeal from the judgment of conviction, explain briefly why you did not:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

***POST-CONVICTION RELIEF***

13. Did you file a petition for state post-conviction relief?

Yes

No

- a. Name of court: \_\_\_\_\_
- b. Docket or case number (if known): \_\_\_\_\_
- c. Nature of proceeding: \_\_\_\_\_
- d. Did you receive an evidentiary hearing?  
 Yes  No
- e. Result: \_\_\_\_\_
- f. Date of result and citation or case number (if known): \_\_\_\_\_
- g. Grounds raised:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

14. Did you appeal the result of your state post-conviction case?

Yes

No

- a. Name of court: \_\_\_\_\_
- b. Docket or case number (if known): \_\_\_\_\_
- c. Result: \_\_\_\_\_
- d. Date of result and citation (if known): \_\_\_\_\_
- e. Grounds raised:  
\_\_\_\_\_  
\_\_\_\_\_  
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15. Did you seek further review of the decision on appeal by a higher state court?

Yes  No

- a. Name of court: \_\_\_\_\_
- b. Docket or case number (if known): \_\_\_\_\_
- c. Result: \_\_\_\_\_
- d. Date of result and citation (if known): \_\_\_\_\_
- e. Grounds raised:  
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16. If you did not appeal from the adverse decision in your state post-conviction case, explain briefly why you did not:

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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**GROUND FOR RELIEF**

17. 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: In order to proceed in the federal court, normally you must 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.**

For your information, the following is a list (a-j) 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 grounds other than those listed.

- a. Conviction obtained by plea of guilty that 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 that was unconstitutionally selected and impaneled.
- i. Denial of effective assistance of counsel at trial or on appeal.
- j. Denial of right of appeal.

**A. Ground One:**

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**Supporting FACTS (state *briefly* without citing cases or law):**

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**B. Ground Two:**

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**Supporting FACTS (state *briefly* without citing cases or law):**

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**C. Ground Three:**

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**Supporting FACTS (state *briefly* without citing cases or law):**

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**D. Ground Four:**

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**Supporting FACTS (state *briefly* without citing cases or law):**

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**OTHER INFORMATION**

18. 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:

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

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19. Do you have any petition or appeal now pending (filed and not decided yet) in any court, state or federal, for the judgment you are challenging here?

Yes

No

If the answer is "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised:

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20. 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:

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b. At arraignment and plea:

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c. At trial:

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d. At sentencing:

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e. On appeal:

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f. In any post-conviction proceeding:

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g. On appeal from any adverse ruling in a post-conviction proceeding:

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21. 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

a. If yes, in what court was the prior action filed? \_\_\_\_\_

b. What was the prior case number? \_\_\_\_\_

c. Was the prior action:  Decided on the merits, or

Dismissed on procedural grounds

d. Date of decision: \_\_\_\_\_

e. Are there any issues in this petition raised in the prior petition?

Yes

No

f. If the prior case was denied on the merits, has the Ninth Circuit Court of Appeals given you permission to file this successive petition?

Yes\*

No

\*If the answer is "Yes," you *must* attach a copy of the order received from the Ninth Circuit Court of Appeals.

22. 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 the name and location of the court that imposed the sentence to be served in the future:

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b. Give the date and length of sentence to be served in the future:

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c. Have you filed, or do you contemplate filing, any petition attacking the judgment that imposed the sentence to be served in the future?

Yes

No

23. **TIMELINESS OF PETITION:** If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition:

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24. Date you are mailing (or handing to correctional officer for mailing) this petition to the Court:\*

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**WHEREFORE**, petitioner prays that the Court will grant such relief to which he or she may be entitled in this federal petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 by a person in state custody.

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Signature of Attorney (if any)

**DECLARATION UNDER PENALTY OF PERJURY**

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

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Date

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Signature of Petitioner

\* As noted in the instructions to this form (at #8), if you are incarcerated at Snake River Correctional Institution, you must comply with the requirements of the E-Filing Pilot posted at the institution and set forth in Standing Order 2017-9. Accordingly, you must submit your filings in this case to Snake River Correctional Institution staff for scanning and electronic submission, instead of mailing the filings using the U.S. Postal Service. Please indicate the date you submitted this petition to Snake River Correctional Institution staff for scanning and electronic submission, if you are incarcerated there.