
Name

Prison Number

Place of Confinement

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

UNITED STATES OF AMERICA)

vs.)

_____,)
(Full Name of Movant))

_____,)
(Include name under which you were)
convicted.))

Movant.)
_____)

Case Number (To be supplied by
the Clerk, U. S. District Court)

MOTION TO VACATE, SET ASIDE,
OR CORRECT SENTENCE BY A
PERSON IN FEDERAL CUSTODY
(28 U.S.C. § 2255)

(If movant has a sentence to be served in the future under a federal judgment which he wishes to attack, he should file a motion in the federal court which entered the judgment.)

INSTRUCTIONS - READ CAREFULLY

- (1) This motion must be legibly handwritten or typewritten and signed by the movant 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. Where more room is needed to answer any question, use reverse side of sheet.
- (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, your motion will be filed if it is in proper order. No fee is required with this motion.
- (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 Declaration on the last two (2) pages, 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 judgments entered by one court may be challenged in a single motion. If you seek to challenge judgments entered by different judges or divisions

either in the same district or in different districts, you must file separate motions as to each judgment.

- (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 motion you file seeking relief from any judgment of conviction.
- (7) When the motion is fully completed, *the original and two (2) copies* must be mailed to:

<u>Phoenix & Prescott Divisions:</u>	OR	<u>Tucson Division:</u>
U.S. District Court Clerk		U.S. District Court Clerk
U.S. Courthouse, Suite 321		U.S. Courthouse, Suite 1500
401 West Washington St., SPC 10		405 West Congress Street
Phoenix, Arizona 85003-2119		Tucson, Arizona 85701-5010
- (8) Motions which do not conform to these instructions will be returned with a notation as to the deficiency.

MOTION

- 1. Name and location of court which entered the judgment of conviction under attack: _____
- 2. Date of judgment of conviction: _____
- 3. Length of sentence: _____ Sentencing Judge: _____
- 4. Nature of offense involved (all counts): _____

- 5. What was your plea? (Check one)
(a) Not Guilty ()
(b) Guilty ()
(c) Nolo contendere ()
If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details: _____

- 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 appeal, answer the following:
(a) Name of Court: _____
(b) Result: _____
(c) Date of result: _____
- 10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any federal court? Yes () No ()
- 11. If your answer to 10 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: _____

(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: _____

(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, to an appellate federal 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 ()

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

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

12. 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: If you fail to set forth all grounds in this motion, you may be barred from presenting additional grounds at a later date.

15. 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: _____

- (f) In any post-conviction proceeding: _____

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

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at approximately the same time?
 Yes () No ()
17. 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 which imposed the sentence to be served in the future: _____

- (b) Give the 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 ()

WHEREFORE, movant prays that the court grant him all relief to which he may be entitled in this proceeding.

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

Executed on _____
 (date)

 Signature of Movant

 Signature of Attorney (if any)