

**Instructions for Filing a Petition Under 28 U.S.C. § 2254  
for a Writ of Habeas Corpus by a Person in State Custody  
in the United States District Court for the District of Arizona**

1. Who May Use This Form. 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 on the grounds that your conviction or sentence violates the United States Constitution or other federal law. You also may 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 conviction or sentence, you should file a motion under 28 U.S.C. § 2255 to vacate sentence in the federal court that entered the judgment. **This form should not be used in death penalty cases.** If you were sentenced to death, you are entitled to the assistance of counsel and you should request the appointment of counsel.
2. The Form. **Local Rule of Civil Procedure (LRCiv) 3.5(a) provides that habeas corpus petitions must be filed on the court-approved form.** The form must be typed or neatly handwritten. All questions must be answered clearly and concisely in the appropriate space on the form. If needed, you may attach additional pages. The form, however, must be completely filled in to the extent applicable. You do not need to cite law. If you want to file a brief or arguments, you must attach a separate memorandum.
3. Your Signature. 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.
4. The Filing Fee. The filing fee for this action is \$5.00. If you are unable to pay the filing fee, you may request permission to proceed in forma pauperis by completing and signing the Application to Proceed In Forma Pauperis provided with the petition form. You must have an official at the prison or jail complete the certificate at the bottom of the application form. If the amount of money in your account exceeds \$25.00, you must pay the \$5.00 filing fee. LRCiv 3.5(b).
5. Original and Judge's Copy. You must send an **original plus one copy** of your petition and of any other document submitted to the Court. You must send one additional copy to the Court if you wish to have a file-stamped copy of the document returned to you. All copies must be identical to the original. Copies may be legibly handwritten. **This section does not apply to inmates housed at an Arizona Department of Corrections facility that participates in electronic filing.**
6. Where to File. You should **file your petition in the division where you were convicted.** See LRCiv 5.1(b). If you are challenging a judgment of conviction entered in Maricopa, Pinal, Yuma, La Paz, or Gila County, file your petition in the Phoenix Division. If you are challenging a judgment of conviction entered in Apache, Navajo, Coconino, Mohave, or Yavapai County, file your petition in the Prescott Division. If you are challenging a judgment of conviction entered in Pima, Cochise, Santa Cruz, Graham, or Greenlee County, file your petition in the Tucson Division. See LRCiv 5.1(b) and 77.1(a).

**Mail the original and one copy of your petition with the \$5.00 filing fee or the application to proceed in forma pauperis to:**

Phoenix & Prescott Divisions:  
U.S. District Court Clerk  
U.S. Courthouse, Suite 130  
401 West Washington Street, SPC 10  
Phoenix, Arizona 85003-2119

**OR**

Tucson Division:  
U.S. District Court Clerk  
U.S. Courthouse, Suite 1500  
405 West Congress Street  
Tucson, Arizona 85701-5010

7. Change of Address. You must immediately notify the Court and respondents in writing of any change in your mailing address. **Failure to notify the Court of any change in your mailing address may result in the dismissal of your case.**

8. Certificate of Service. You must provide the respondents with a copy of any document you submit to the Court (except the initial petition and application to proceed in forma pauperis). Each original document (except the initial petition and application to proceed in forma pauperis) must include a certificate of service on the last page of the document stating the date a copy of the document was mailed to the respondents and the address to which it was mailed. Fed. R. Civ. P. 5(a), (d). Any document received by the Court that does not include a certificate of service may be stricken. **This section does not apply to inmates housed at an Arizona Department of Corrections facility that participates in electronic filing.**

A certificate of service should be in the following form:

I hereby certify that a copy of the foregoing document was mailed  
this \_\_\_\_\_ (month, day, year) to:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Attorney for Respondent(s)

\_\_\_\_\_  
(Signature)

9. Amended Petition. If you need to change any of the information in the initial petition, you must file an amended petition. The amended petition must be written on the court-approved petition for writ of habeas corpus form. You may amend your pleading once without leave (permission) of Court within 21 days after serving it or within 21 days after any respondent has filed an answer, whichever is earlier. *See* Fed. R. Civ. P. 15(a). Thereafter, you must file a motion for leave to amend and lodge (submit) a proposed amended petition. LRCiv 15.1. An amended petition may not incorporate by reference any part of your prior petition. LRCiv 15.1(a)(2). **Any grounds not included in the amended petition are considered dismissed.**

10. Exhibits. If available, you should attach a copy of all state and federal court written decisions regarding the conviction you are challenging. **Do not submit any other exhibits with the petition.** Instead, you should paraphrase the relevant information in the petition. The respondents are obligated to provide relevant portions of the record.

Any exhibits you attach should be individually labeled (e.g. “Exhibit 1,” “Exhibit 2,” etc.) and attached at the **end** of your petition. **Exhibits should not be placed in the middle of your petition.**

11. Letters and Motions. It is generally inappropriate to write a letter to any judge or the staff of any judge. The only appropriate way to communicate with the Court is by filing a written pleading or motion.

12. Warnings.

a. Judgment Entered by a Single Court. You may challenge the judgment entered by only one court. Multiple counts which resulted in a judgment by the same court may be challenged in the same petition. If you wish to challenge judgments entered by more than one court, however, you must file separate petitions for each judgment.

b. Grounds for Relief. You must raise all grounds for relief that relate to this conviction or sentence. Any grounds not raised in this petition will likely be barred from being raised in any subsequent federal action.

c. Exhaustion. In order to proceed in federal court, you ordinarily must exhaust the remedies available to you in the state courts as to each claim on which you request action by the federal court. If you did not fairly present each of your grounds to the Arizona Court of Appeals, your petition may be dismissed. If you did not present one or more of your grounds to the Arizona Court of Appeals, explain why you did not.

### **FINAL NOTE**

You should follow these instructions carefully. Failure to do so may result in your petition being stricken or dismissed by the Court. All questions must be answered concisely in the proper space on the form. If you need more space, you may attach additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the petition is being continued and number all pages.

\_\_\_\_\_  
Name and Prisoner/Booking Number

\_\_\_\_\_  
Place of Confinement

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City, State, Zip Code

**(Failure to notify the Court of your change of address may result in dismissal of this action.)**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

\_\_\_\_\_,  
(Full Name of Petitioner)

Petitioner,

v.

\_\_\_\_\_,  
(Name of the Director of the Department of  
Corrections, Jailer or authorized person having custody  
of Petitioner),

Respondent,  
and

The Attorney General of the State of \_\_\_\_\_,

Additional Respondent.

**CASE NO.** \_\_\_\_\_  
(To be supplied by the Clerk)

**PETITION UNDER 28 U.S.C. § 2254  
FOR A WRIT OF HABEAS CORPUS  
BY A PERSON IN STATE CUSTODY  
(NON-DEATH PENALTY)**

**PETITION**

1. (a) Name and location of court that entered the judgment of conviction you are challenging: \_\_\_\_\_  
\_\_\_\_\_

(b) Criminal docket or case number: \_\_\_\_\_

2. Date of judgment of conviction: \_\_\_\_\_

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

4. Identify all counts and crimes for which you were convicted and sentenced in this case: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. Length of sentence for each count or crime for which you were convicted in this case: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. (a) What was your plea?
- Not guilty
  - Guilty
  - Nolo contendere (no contest)

(b) If you entered a guilty plea to one count or charge, and a not guilty plea to another count or charge, give details: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

7. Did you testify at the trial? Yes  No

8. Did you file a direct appeal to the Arizona Court of Appeals from the judgment of conviction?  
Yes  No

If yes, answer the following:

(a) Date you filed: \_\_\_\_\_

(b) Docket or case number: \_\_\_\_\_

(c) Result: \_\_\_\_\_

(d) Date of result: \_\_\_\_\_

(e) Grounds raised: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Attach, if available, a copy of any brief filed on your behalf and a copy of the decision by the court.**

9. Did you appeal to the Arizona Supreme Court? Yes  No

If yes, answer the following:

(a) Date you filed: \_\_\_\_\_

(b) Docket or case number: \_\_\_\_\_

(c) Result: \_\_\_\_\_

(d) Date of result: \_\_\_\_\_

(e) Grounds raised: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Attach, if available, a copy of any brief filed on your behalf and a copy of the decision by the court.**

10. Did you file a petition for certiorari in the United States Supreme Court? Yes  No

If yes, answer the following:

(a) Date you filed: \_\_\_\_\_

(b) Docket or case number: \_\_\_\_\_

(c) Result: \_\_\_\_\_

(d) Date of result: \_\_\_\_\_

(e) Grounds raised: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Attach, if available, a copy of any brief filed on your behalf and a copy of the decision by the court.**

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

If yes, answer the following:

(a) First Petition.

(1) Date you filed: \_\_\_\_\_

(2) Name of court: \_\_\_\_\_

(3) Nature of the proceeding (Rule 32, special action or habeas corpus): \_\_\_\_\_

(4) Docket or case number: \_\_\_\_\_

(5) Result: \_\_\_\_\_

(6) Date of result: \_\_\_\_\_

(7) Grounds raised: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Attach, if available, a copy of any brief filed on your behalf and a copy of the decision by the court.**

(b) Second Petition.

(1) Date you filed: \_\_\_\_\_

(2) Name of court: \_\_\_\_\_

(3) Nature of the proceeding (Rule 32, special action or habeas corpus): \_\_\_\_\_

(4) Docket or case number: \_\_\_\_\_

(5) Result: \_\_\_\_\_

(6) Date of result: \_\_\_\_\_

(7) Grounds raised: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Attach, if available, a copy of any brief filed on your behalf and a copy of the decision by the court.**













**Please answer these additional questions about this petition:**

13. 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, give the date of filing, 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: \_\_\_\_\_

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

If yes, give the date of filing, the name and location of the court, the docket or case number, the type of proceeding, and the issues raised: \_\_\_\_\_

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15. Do you have any future sentence to serve after you complete the sentence imposed by the judgment you are challenging?      Yes       No

If yes, answer the following:

(a) Name and location of the court that imposed the sentence to be served in the future:

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(b) Date that the other sentence was imposed: \_\_\_\_\_

(c) Length of the other sentence: \_\_\_\_\_

(d) Have you filed, or do you plan to file, any petition challenging the judgment or sentence to be served in the future?      Yes       No

