



Brian D. Karth

District Court Executive / Clerk of Court
350 West 1st Street, Suite 4311
Los Angeles, CA 90012

United States District Court
Central District of California
Office of the Clerk

Natasha Alexander-Mingo
Chief Probation & Pretrial Services Officer
255 East Temple Street, Suite 1410
Los Angeles, CA 90012-1565

Benjamin Medina
Chief Deputy of Administration
350 West 1st Street, Suite 4311
Los Angeles, CA 90012-4565

Maya Roy
Chief Deputy of Operations
350 West 1st Street, Suite 4311
Los Angeles, CA 90012-4565

Dear Sir/Madam:

Enclosed are the documents indicated below:

- One copy of United States Code, Title 28, Section 2255 ("28 U.S.C. § 2255")
- One copy of the Rules Governing Section 2255 Proceedings for the United States District Courts
- One copy of Local Rule 83-16
- Three copies of this Court's form *Motion to Vacate, Set Aside or Correct Sentence by a Person in Federal Custody - 28 U.S.C. § 2255* (Form CV-67)

The Judges of this Court have adopted the enclosed form *Motion to Vacate, Set Aside or Correct Sentence by a Person in Federal Custody - 28 U.S.C. § 2255* (Form CV-67) for use by any person seeking such relief. Please review the form's instructions carefully and comply with its requirements.

When you have fully completed the form, return the original and one copy to the Court for filing; keep the last copy for your records. You may return these documents to the Court either by mail or in person at any of the following locations:

United States Courthouse
255 East Temple St., Suite TS-134
Los Angeles, CA 90012

United States Courthouse
411 West Fourth St., Room 1053
Santa Ana, CA 92701-4516

United States Courthouse
3470 Twelfth St., Room 134
Riverside, CA 92501

If you return the documents by mail and wish to receive a conformed copy of the first page of your motion (that is, a copy of the first page of your motion showing the filing date and case number), you must include an additional copy of that page and a self-addressed, stamped envelope. Whether or not you include a self-addressed, stamped envelope, after your documents have been filed you will receive a notice from the Court informing you of the case number and judge assigned to your case.

There is no filing fee required for the filing of a motion seeking relief pursuant to 28 U.S.C. § 2255.

Sincerely,

Clerk, U. S. District Court

Encls.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

TITLE 28 UNITED STATES CODE

§ 2255. FEDERAL CUSTODY; REMEDIES ON MOTION ATTACKING SENTENCE

(a) A prisoner in custody under sentence of a court established by Act of Congress claiming the right to be released upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack, may move the court which imposed the sentence to vacate, set aside or correct the sentence.

(b) Unless the motion and the files and records of the case conclusively show that the prisoner is entitled to no relief, the court shall cause notice thereof to be served upon the United States attorney, grant a prompt hearing thereon, determine the issues and make findings of fact and conclusions of law with respect thereto. If the court finds that the judgment was rendered without jurisdiction, or that the sentence imposed was not authorized by law or otherwise open to collateral attack, or that there has been such a denial or infringement of the constitutional rights of the prisoner as to render the judgment vulnerable to collateral attack, the court shall vacate and set the judgment aside and shall discharge the prisoner or resentence him or grant a new trial or correct the sentence as may appear appropriate.

(c) A court may entertain and determine such motion without requiring the production of the prisoner at the hearing.

(d) An appeal may be taken to the court of appeals from the order entered on the motion as from a final judgment on application for a writ of habeas corpus.

(e) An application for a writ of habeas corpus in behalf of a prisoner who is authorized to apply for relief by motion pursuant to this section, shall not be entertained if it appears that the applicant has failed to apply for relief, by motion, to the court which sentenced him, or that such court has denied him relief, unless it also appears that the remedy by motion is inadequate or ineffective to test the legality of his detention.

(f) A 1-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of—

(1) the date on which the judgment of conviction becomes final;

(2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making a motion by such governmental action;

(3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

(4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

(g) Except as provided in section 408 of the Controlled Substances Act, in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint counsel, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18.

(h) A second or successive motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals to contain—

(1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense; or

(2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.

RULES GOVERNING SECTION 2255 CASES FOR THE UNITED STATES DISTRICT COURTS

Rule 1. Scope. These rules govern a motion filed in a United States district court under 28 U.S.C. § 2255 by:

- (a) a person in custody under a judgment of that court who seeks a determination that:
- (1) the judgment violates the Constitution or laws of the United States;
 - (2) the court lacked jurisdiction to enter the judgment;
 - (3) the sentence exceeded the maximum allowed by law; or
 - (4) the judgment or sentence is otherwise subject to collateral review; and
- (b) a person in custody under a judgment of a state court or another federal court, and subject to future custody under a judgment of the district court, who seeks a determination that:
- (1) future custody under a judgment of the district court would violate the Constitution or laws of the United States;
 - (2) the district court lacked jurisdiction to enter the judgment;
 - (3) the district court's sentence exceeded the maximum allowed by law, or
 - (4) the district court's judgment or sentence is otherwise subject to collateral review.

Rule 2. The Motion

- (a) **Applying for Relief.** The application must be in the form of a motion to vacate, set aside, or correct the sentence.
- (b) **Form.** The motion must:
- (1) specify all the grounds for relief available to the moving party;
 - (2) state the facts supporting each ground;
 - (3) state the relief requested;
 - (4) be printed, typewritten, or legibly handwritten; and
 - (5) be signed under penalty of perjury by the movant or by a person authorized to sign it for the movant.
- (c) **Standard Form.** The motion must substantially follow either the form appended to these rules or a form prescribed by a local district-court rule. The clerk must make forms available to moving parties without charge.
- (d) **Separate Motions for Separate Judgments.** A moving party who seeks relief from more than one judgment must file a separate motion covering each judgment.

Rule 3. Filing the Motion; Inmate Filing

- (a) **Where to File; Copies.** An original and two copies of the motion must be filed with the clerk.
- (b) **Filing and Service.** The clerk must file the motion and enter it on the criminal docket of the case in which the challenged judgment was entered. The clerk must then deliver or serve a copy of the motion on the United States attorney in that district, together with a notice of its filing.
- (c) **Time to File.** The time for filing a motion is governed by 28 U.S.C. § 2255 para. 6.
- (d) **Inmate Filing.** A paper filed by an inmate confined in an institution is timely if deposited in the institution's internal mailing system on or before the last day for filing. If an institution has a system designed for legal mail, the inmate must use that system to receive the benefit of this rule. Timely filing may be shown by a declaration in compliance with 28 U.S.C. § 1746 or by a notarized statement, either of which must set forth the date of deposit and state that first-class postage has been prepaid.

Rule 4. Preliminary Review.

- (a) **Referral to a Judge.** The clerk must promptly forward the motion to the judge who conducted the trial and imposed sentence or, if the judge who imposed sentence was not the trial judge, to the judge who conducted the proceedings being challenged. If the appropriate judge is not available, the clerk must forward the motion to a judge under the court's assignment procedure.
- (b) **Initial Consideration by the Judge.** The judge who receives the motion must promptly examine it. If it plainly appears from the motion, any attached exhibits, and the record of prior proceedings that the moving

party is not entitled to relief, the judge must dismiss the motion and direct the clerk to notify the moving party. If the motion is not dismissed, the judge must order the United States Attorney to file an answer, motion, or other response within a fixed time, or to take other action the judge may order.

Rule 5. The Answer and the Reply.

(a) When Required. The respondent is not required to answer the motion unless a judge so orders.

(b) Contents. The answer must address the allegations in the motion. In addition, it must state whether the moving party has used any other federal remedies, including any prior post-conviction motions under these rules or any previous rules, and whether the moving party received an evidentiary hearing.

(c) Records of Prior Proceedings. If the answer refers to briefs or transcripts of the prior proceedings that are not available in the court's records, the judge must order the government to furnish them within a reasonable time that will not unduly delay the proceedings.

(d) Reply. The moving party may submit a reply to the respondent's answer or other pleading within a time fixed by the judge.

Rule 6. Discovery.

(a) Leave of Court Required. A judge may, for good cause, authorize a party to conduct discovery under the Federal Rules of Criminal Procedure or Civil Procedure, or in accordance with the practices and principles of law. If necessary for effective discovery, the judge must appoint an attorney for a moving party who qualifies to have counsel appointed under 18 U.S.C. § 3006A.

(b) Requesting Discovery. A party requesting discovery must provide reasons for the request. The request must also include any proposed interrogatories and requests for admission, and must specify any requested documents.

(c) Deposition Expenses. If the government is granted leave to take the deposition, the judge may require the government to pay the travel expenses, subsistence expenses, and fees of the moving party's attorney to attend the deposition.

Rule 7. Expanding the Record.

(a) In General. If the motion is not dismissed, the judge may direct the parties to expand the record by submitting additional materials relating to the motion. The judge may require that these materials be authenticated.

(b) Types of Materials. The materials that may be required include letters predating the filing of the motion, documents, exhibits, and answers under oath to written interrogatories propounded by the judge. Affidavits also may be submitted and considered as part of the record.

(c) Review by the Opposing Party. The judge must give the party against whom the additional materials are offered an opportunity to admit or deny their correctness.

Rule 8. Evidentiary Hearing.

(a) Determining Whether to Hold a Hearing. If the motion is not dismissed, the judge must review the answer, any transcripts and records of prior proceedings, and any materials submitted under Rule 7 to determine whether an evidentiary hearing is warranted.

(b) Reference to a Magistrate Judge. A judge may, under 28 U.S.C. § 636(b), refer the motion to a magistrate judge to conduct hearings and to file proposed findings of fact and recommendations for disposition. When they are filed, the clerk must promptly serve copies of the proposed findings and recommendations on all parties. Within 14 days after being served, a party may file objections as provided by local court rule. The judge must determine de novo any proposed finding or recommendation to which objection is made. The judge may accept, reject, or modify any proposed finding or recommendation.

(c) Appointing Counsel; Time of Hearing. If an evidentiary hearing is warranted, the judge must appoint an attorney to represent a moving party who qualifies to have counsel appointed under 18 U.S.C. § 3006A. The

judge must conduct the hearing as soon as practicable after giving the attorneys adequate time to investigate and prepare. These rules do not limit the appointment of counsel under § 3006A at any stage of the proceeding.

(d) Producing a Statement. Federal Rule of Criminal Procedure 26.2(a)-(d) and (f) applies at a hearing under this rule. If a party does not comply with a Rule 26.2(a) order to produce a witness's statement, the court must not consider that witness's testimony.

Rule 9. Second or Successive Motions.

Before presenting a second or successive motion, the moving party must obtain an order from the appropriate court of appeals authorizing the district court to consider the motion, as required by 28 U.S.C. § 2255, para. 8.

Rule 10. Powers of a Magistrate Judge.

A magistrate judge may perform the duties of a district judge under these rules, as authorized by 28 U.S.C. § 636.

Rule 11. Certificate of Appealability; Time to Appeal

(a) Certificate of Appealability. The district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant. Before entering the final order, the court may direct the parties to submit arguments on whether a certificate should issue. If the court issues a certificate, the court must state the specific issue or issues that satisfy the showing required by 28 U.S.C. § 2253(c)(2). If the court denies a certificate, a party may not appeal the denial but may seek a certificate from the court of appeals under Federal Rule of Appellate Procedure 22. A motion to reconsider a denial does not extend the time to appeal.

(b) Time to Appeal. Federal Rule of Appellate Procedure 4(a) governs the time to appeal an order entered under these rules. A timely notice of appeal must be filed even if the district court issues a certificate of appealability. These rules do not extend the time to appeal the original judgment of conviction.

Rule 12. Applicability of the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure.

The Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure, to the extent that they are not inconsistent with any statutory provisions or these rules, may be applied to a proceeding under these rules.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
LOCAL CIVIL RULES

L.R. 83-16 Habeas Corpus Petitions and Motions Under 28 U.S.C. Section 2255

L.R. 83-16.1 Court Forms. A petition for a writ of habeas corpus or a motion filed pursuant to 28 U.S.C. § 2255 shall be submitted on the forms approved and supplied by the Court.

L.R. 83-16.2 Verification - Other Than By Person in Custody. If the petition or motion is verified by a person other than the individual in custody, the person verifying the document shall set forth the reason why it has not been verified by the person in custody. The person verifying the document shall allege only facts personally known to that person. If facts are alleged upon information and belief, the source of the information and belief shall be stated.

L.R. 83-16.3 Habeas Corpus - Exclusion, Deportation and Removal Cases. A next friend petition for a writ of habeas corpus in exclusion, deportation and removal cases must allege that the petitioner has been authorized by the applicant for admission or respondent in the proceedings to file the petition. If the petition is filed by a relative who is the father, mother, husband, wife, brother, sister, uncle or aunt of the applicant for admission in the proceedings, that fact shall be alleged and authorization to file the petition need not be shown.

NAME

PRISON IDENTIFICATION/BOOKING NO.

ADDRESS OR PLACE OF CONFINEMENT

Note: If represented by an attorney, provide name, address, & telephone number. *It is your responsibility to notify the Clerk of Court in writing of any change of address.*

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

FULL NAME OF MOVANT
(Include name under which you were convicted)

Petitioner.

CASE NUMBER:

CV

To be supplied by the Clerk of the United States District Court

CR

Criminal case under which sentence was imposed.

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

INSTRUCTIONS - READ CAREFULLY

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 questions use reverse side of sheet.

Additional pages are not permitted. No citation or authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.

Upon receipt, your motion will be filed if it is in proper order. **NO FEE** is required with this motion

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 page, setting forth information establishing your inability to pay 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.

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 a different district, you must file separate motions as to each judgment.

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.

When the motion is fully completed, the original and three (3) copies must be mailed to the Clerk of the United States District Court, whose address is 255 East Temple Street, Suite TS-134, Los Angeles, California 90012.

MOTION

1. Name and location of court that entered judgment of conviction under attack: _____

2. Date of judgment of conviction: _____

3. Length of sentence: _____ Sentencing judge: _____

4. Nature of offense or offenses for which you were convicted: _____

5. What was your plea? *(check one)*

- Not guilty
- Guilty
- 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)*

- Jury
- 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 question number 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) (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) (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 results 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.

CAUTION: If you fail to set forth all grounds in this motion, you may be barred from presenting additional grounds at a later date. For your information, the following is a list of the most frequently raised grounds for relief in this type of proceeding. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds that you have, whether listed below or not. However, you should raise in this motion all available grounds (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

If you select one or more of the grounds listed below for relief, you must allege facts in support of the grounds you select. The petition will be returned to you if you merely check (a) through (j) or any one or more of these grounds without alleging facts in support.

- (a) Conviction obtained by plea of guilty that was unlawfully induced or not made voluntarily or 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 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 which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one: _____

Supporting facts (tell your story briefly without citing cases or law): _____

B. Ground two: _____

Supporting facts (tell your story briefly without citing cases or law): _____

C. Ground three: _____

Supporting facts (tell your story briefly without citing cases or law): _____

D. Ground four: _____

Supporting facts (tell your story briefly without citing cases or law): _____

13. If any of the grounds listed in 12 A, B, C, or D were not previously presented, state briefly what grounds were not presented, and give your reasons for not presenting them: _____

14. Do you have any petition or appeal now pending in any court as to the judgment under attack?

Yes No

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 a 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 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 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 that imposed 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 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.

Signature of Attorney (if any)

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

Executed on _____
Date

Signature of Movant

**DECLARATION IN SUPPORT
OF REQUEST
TO PROCEED
IN FORMA PAUPERIS**

Petitioner

Respondent(s)

I, _____, declare that I am the petitioner in the above entitled case; that in support of my motion to proceed without being required to prepay fees, costs or give security therefor, I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefor; that I believe I am entitled to relief.

1. Are you presently employed? Yes No

a. If the answer is yes, state the amount of your salary or wages per month, and give the name and address of your employer. _____

b. If the answer is no, state the date of last employment and the amount of the salary and wages per month which you received. _____

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

a. Business, profession or form of self-employment? Yes No

b. Rent payments, interest or dividends? Yes No

c. Pensions, annuities or life insurance payments? Yes No

d. Gifts or inheritances? Yes No

e. Any other sources? Yes No

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: _____

3. Do you own any cash, or do you have money in a checking or savings account? (*Include any funds in prison accounts*) Yes No

If the answer is yes, state the total value of the items owned: _____

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property? (*Excluding ordinary household furnishings and clothing*) Yes No

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

5. List the persons who are dependent upon you for support, state your relationship to those persons, and indicate 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.

Executed on _____
Date

Signature of Petitioner

CERTIFICATE

I hereby certify that the Petitioner herein has the sum of \$_____ on account to his credit at the _____ institution where he is confined. I further certify that Petitioner likewise has the following securities to his credit according to the records of said institution:

Date

Authorized Officer of Institution

Title of Officer

NAME

PRISON IDENTIFICATION/BOOKING NO.

ADDRESS OR PLACE OF CONFINEMENT

Note: If represented by an attorney, provide name, address, & telephone number. *It is your responsibility to notify the Clerk of Court in writing of any change of address.*

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

FULL NAME OF MOVANT
(Include name under which you were convicted)

Petitioner.

CASE NUMBER:

CV

To be supplied by the Clerk of the United States District Court

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Criminal case under which sentence was imposed.

**MOTION TO VACATE, SET ASIDE, OR
CORRECT SENTENCE BY A PERSON IN
FEDERAL CUSTODY
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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 a different district, you must file separate motions as to each judgment.

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MOTION

1. Name and location of court that entered judgment of conviction under attack: _____

2. Date of judgment of conviction: _____

3. Length of sentence: _____ Sentencing judge: _____

4. Nature of offense or offenses for which you were convicted: _____

5. What was your plea? *(check one)*

- Not guilty
- Guilty
- 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)*

- Jury
- 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 question number 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) (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) (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 results 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.

CAUTION: If you fail to set forth all grounds in this motion, you may be barred from presenting additional grounds at a later date. For your information, the following is a list of the most frequently raised grounds for relief in this type of proceeding. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds that you have, whether listed below or not. However, you should raise in this motion all available grounds (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

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- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by 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 which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one: _____

Supporting facts (tell your story briefly without citing cases or law): _____

B. Ground two: _____

Supporting facts (tell your story briefly without citing cases or law): _____

C. Ground three: _____

Supporting facts (tell your story briefly without citing cases or law): _____

D. Ground four: _____

Supporting facts (tell your story briefly without citing cases or law): _____

13. If any of the grounds listed in 12 A, B, C, or D were not previously presented, state briefly what grounds were not presented, and give your reasons for not presenting them: _____

14. Do you have any petition or appeal now pending in any court as to the judgment under attack?

Yes No

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 a 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 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 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 that imposed 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 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.

Signature of Attorney (if any)

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

Executed on _____
Date

Signature of Movant

**DECLARATION IN SUPPORT
OF REQUEST
TO PROCEED
IN FORMA PAUPERIS**

Petitioner

Respondent(s)

I, _____, declare that I am the petitioner in the above entitled case; that in support of my motion to proceed without being required to prepay fees, costs or give security therefor, I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefor; that I believe I am entitled to relief.

1. Are you presently employed? Yes No

a. If the answer is yes, state the amount of your salary or wages per month, and give the name and address of your employer. _____

b. If the answer is no, state the date of last employment and the amount of the salary and wages per month which you received. _____

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

a. Business, profession or form of self-employment? Yes No

b. Rent payments, interest or dividends? Yes No

c. Pensions, annuities or life insurance payments? Yes No

d. Gifts or inheritances? Yes No

e. Any other sources? Yes No

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: _____

3. Do you own any cash, or do you have money in a checking or savings account? (*Include any funds in prison accounts*) Yes No

If the answer is yes, state the total value of the items owned: _____

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property? (*Excluding ordinary household furnishings and clothing*) Yes No

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

5. List the persons who are dependent upon you for support, state your relationship to those persons, and indicate 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.

Executed on _____
Date

Signature of Petitioner

CERTIFICATE

I hereby certify that the Petitioner herein has the sum of \$_____ on account to his credit at the _____ institution where he is confined. I further certify that Petitioner likewise has the following securities to his credit according to the records of said institution:

Date

Authorized Officer of Institution

Title of Officer

NAME

PRISON IDENTIFICATION/BOOKING NO.

ADDRESS OR PLACE OF CONFINEMENT

Note: If represented by an attorney, provide name, address, & telephone number. *It is your responsibility to notify the Clerk of Court in writing of any change of address.*

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

FULL NAME OF MOVANT
(Include name under which you were convicted)

Petitioner.

CASE NUMBER:

CV

To be supplied by the Clerk of the United States District Court

CR

Criminal case under which sentence was imposed.

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

INSTRUCTIONS - READ CAREFULLY

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 questions use reverse side of sheet.

Additional pages are not permitted. No citation or authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.

Upon receipt, your motion will be filed if it is in proper order. **NO FEE** is required with this motion

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 page, setting forth information establishing your inability to pay 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.

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 a different district, you must file separate motions as to each judgment.

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.

When the motion is fully completed, the original and three (3) copies must be mailed to the Clerk of the United States District Court, whose address is 255 East Temple Street, Suite TS-134, Los Angeles, California 90012.

MOTION

1. Name and location of court that entered judgment of conviction under attack: _____

2. Date of judgment of conviction: _____

3. Length of sentence: _____ Sentencing judge: _____

4. Nature of offense or offenses for which you were convicted: _____

5. What was your plea? *(check one)*

- Not guilty
- Guilty
- 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)*

- Jury
- 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 question number 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) (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) (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 results 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.

CAUTION: If you fail to set forth all grounds in this motion, you may be barred from presenting additional grounds at a later date. For your information, the following is a list of the most frequently raised grounds for relief in this type of proceeding. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds that you have, whether listed below or not. However, you should raise in this motion all available grounds (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

If you select one or more of the grounds listed below for relief, you must allege facts in support of the grounds you select. The petition will be returned to you if you merely check (a) through (j) or any one or more of these grounds without alleging facts in support.

- (a) Conviction obtained by plea of guilty that was unlawfully induced or not made voluntarily or 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 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 which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one: _____

Supporting facts (tell your story briefly without citing cases or law): _____

B. Ground two: _____

Supporting facts (tell your story briefly without citing cases or law): _____

C. Ground three: _____

Supporting facts (tell your story briefly without citing cases or law): _____

D. Ground four: _____

Supporting facts (tell your story briefly without citing cases or law): _____

13. If any of the grounds listed in 12 A, B, C, or D were not previously presented, state briefly what grounds were not presented, and give your reasons for not presenting them: _____

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

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(c) At trial: _____

(d) At sentencing: _____

(e) On appeal: _____

(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 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 that imposed 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 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.

Signature of Attorney (if any)

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

Executed on _____
Date

Signature of Movant

**DECLARATION IN SUPPORT
OF REQUEST
TO PROCEED
IN FORMA PAUPERIS**

Petitioner

Respondent(s)

I, _____, declare that I am the petitioner in the above entitled case; that in support of my motion to proceed without being required to prepay fees, costs or give security therefor, I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefor; that I believe I am entitled to relief.

1. Are you presently employed? Yes No

a. If the answer is yes, state the amount of your salary or wages per month, and give the name and address of your employer. _____

b. If the answer is no, state the date of last employment and the amount of the salary and wages per month which you received. _____

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

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c. Pensions, annuities or life insurance payments? Yes No

d. Gifts or inheritances? Yes No

e. Any other sources? Yes No

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: _____

3. Do you own any cash, or do you have money in a checking or savings account? (*Include any funds in prison accounts*) Yes No

If the answer is yes, state the total value of the items owned: _____

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property? (*Excluding ordinary household furnishings and clothing*) Yes No

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

5. List the persons who are dependent upon you for support, state your relationship to those persons, and indicate 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.

Executed on _____
Date

Signature of Petitioner

CERTIFICATE

I hereby certify that the Petitioner herein has the sum of \$_____ on account to his credit at the _____ institution where he is confined. I further certify that Petitioner likewise has the following securities to his credit according to the records of said institution:

Date

Authorized Officer of Institution

Title of Officer