

**Instructions for Filing a Petition Under 28 U.S.C. § 2241
for Writ of Habeas Corpus by a Person in Custody
in the United States District Court for the Eastern District of Pennsylvania**

- 1. Who May Use This Form.** If you are detained in the Eastern District of Pennsylvania, you may use this form to challenge your detention by federal immigration authorities, to challenge the execution of your federal sentence by the United States Bureau of Prisons, or to challenge your pre-trial detention by federal or state authorities. You are asking for release or earlier release on the ground that your detention or future detention violates the United States Constitution or other federal law.

You should not use this form to challenge a state or federal judgment of conviction or sentence. If you are challenging a conviction or sentence entered against you by a state court, you should file a petition under 28 U.S.C. § 2254 for writ of habeas corpus by a person in state custody. If you are challenging a judgment of conviction or sentence entered by a federal court, you should file a motion under 28 U.S.C. § 2255 to vacate sentence in the federal court that entered the judgment.

Any claim that may be brought or has already been brought in a petition under 28 U.S.C. § 2254 may not be brought using this form unless it appears that the § 2254 petition is inadequate or ineffective to test the legality of your detention. Any claim that may be brought or has already been brought in a motion under 28 U.S.C. § 2255 may not be brought using this form unless it appears that the § 2255 motion is inadequate or ineffective to test the legality of your detention. **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. 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.
- 3. 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* as a poor person by completing and signing the Application to Proceed Without Prepaying Fees or Costs provided with the petition form. **You must have an official at the prison complete the certificate at the bottom of the application form.**
- 4. Original.** You must send an **original copy**.
- 5. 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.

6. **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. Any document received by the Court who does not include a certificate of service may be stricken. 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, and year) to:

Name: _____

Address: _____

Attorney for Respondent(s)

Signature

7. **Exhaustion.** In order to proceed with this petition in federal court, you ordinarily must exhaust any administrative remedies available to you. If you did not fairly present each of your grounds to the appropriate court or administrative agencies, your petition may be dismissed.

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.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

§ 2241 HABEAS CORPUS PETITION FORM
TO BE USED BY PRISONERS IN ACTIONS UNDER 28 U.S.C. § 2241

Inmate/Alien # _____

(Enter full name of Petitioner, prison number or alien [A] number, if applicable, AND address of place of confinement.)

vs.

CASE NO: _____
(To be assigned by Clerk)

(Enter name and title of each Respondent. If additional space is required, use the blank area below and directly to the right.)

ALL APPLICANTS MUST COMPLETE THIS ENTIRE FORM

ANSWER ALL OF THE FOLLOWING:

1. This petition concerns *(check where applicable)*:

- (a) a conviction
- (b) a sentence
- (c) pre-trial detention
- (d) prison disciplinary action or other action resulting in lost gain time credits
- (e) parole
- (f) immigration / removal
- (g) Bureau of Prisons sentence calculation or loss of good-time credits.
- (h) other (explain): _____

2. Provide the following information regarding the conviction(s) and sentence(s) for which you are presently incarcerated:

- (a) Name(s) and location(s) of court: _____
- (b) Number(s): _____
- (c) Charge(s) for which you were convicted: _____

(d) What was your plea? (Check one)

- (1) Not Guilty
- (2) Guilty
- (3) Nolo contendere

(e) Did you appeal from the judgment of conviction? Yes No

3. If you did appeal, answer the following:

- (a) Name of Court: _____ Case # _____
- (b) Result: _____
- (c) Date of opinion and mandate (citation, if known): _____

4. Claims that challenge your conviction or imposition of sentence can only be raised by petition under 28 U.S.C. § 2254 (to challenge a state conviction or sentence) or a motion under § 2255 (to challenge a federal conviction or sentence) unless the § 2254 or § 2255 motion is inadequate or ineffective to test the legality of your detention. If any of the grounds raised above challenge your conviction or sentencing:

- (a) Have you filed a motion under 28 U.S.C. § 2254 or § 2255?
Yes No

If yes, please provide the case #, where filed, relevant date(s), and the results:

(b) Explain why the remedy under § 2254 or § 2255 was or is inadequate or ineffective:

5. Are you currently represented by counsel in this case or in any other court case?

Yes No

If yes, please explain: _____

6. If this case concerns removal proceedings:

(a) Date of final order of removal: _____

(b) Did you file an appeal with Board of Immigration Appeals? Yes No

7. In the spaces below, set forth every ground which supports your claim that you are incarcerated unlawfully. Briefly summarize the specific facts in support of each ground raised. Conclusions that are not supported by specific facts are insufficient. You may attach additional pages if necessary to raise additional grounds or provide additional facts. Do not cite any law in your statement of facts.

(a) Ground One: _____

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

Exhaustion:

[1] Have you presented Ground One to a state or federal court or, to the Bureau of Prisons, either through the prison grievance system or other administrative proceeding?

Yes No

If yes, please provide the results of the proceeding(s) and the relevant date(s).
Include any appeals: _____

[2] (Answer only if you are challenging an issue related to removal (immigration) proceedings) - Did you present Ground One to the Board of Immigration Appeals?

Yes No

If yes, please provide the results of the proceeding(s) and the relevant date(s).

(b) Ground Two: _____

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

Exhaustion:

[1] Have you presented Ground Two to a state or federal court or, to the Bureau of Prisons, either through the prison grievance system or other administrative proceeding?

Yes No

If yes, please provide the results of the proceeding(s) and the relevant date(s).
Include any appeals: _____

[2] (Answer only if you are challenging an issue related to removal (immigration) proceedings) - Did you present Ground Two to the Board of Immigration Appeals?

Yes No

If yes, please provide the results of the proceeding(s) and the relevant date(s).

(c) Ground Three: _____

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

Exhaustion:

[1] Have you presented Ground Three to a state or federal court or, to the Bureau of Prisons, either through the prison grievance system or other administrative proceeding?

Yes No

If yes, please provide the results of the proceeding(s) and the relevant date(s).
Include any appeals: _____

[2] (Answer only if you are challenging an issue related to removal (immigration) proceedings) - Did you present Ground Three to the Board of Immigration Appeals?

Yes No

If yes, please provide the results of the proceeding(s) and the relevant date(s).

(d) Ground Four: _____

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

Exhaustion:

[1] Have you presented Ground Four to a state or federal court or, to the Bureau of Prisons, either through the prison grievance system or other administrative proceeding?

Yes No

If yes, please provide the results of the proceeding(s) and the relevant date(s).
Include any appeals: _____

[2] (Answer only if you are challenging an issue related to removal (immigration) proceedings) - Did you present Ground Four to the Board of Immigration Appeals?

Yes No

If yes, please provide the results of the proceeding(s) and the relevant date(s).

8. WHEREFORE, based upon the grounds raised above, Petitioner prays that the court will grant the following relief:

DECLARATION

I declare under penalty of perjury that I have read the above and the information contained herein is true and correct.

Date

Signature of Petitioner

IF MAILED BY PRISONER:

I declare or state under penalty of perjury that this petition was (*check one*)

delivered to prison officials for mailing, or

deposited in the prison's internal mail system on: _____
Date

Signature of Petitioner