Motion to Vacate, Set Aside, or Correct a Sentence By a Person in Federal Custody

(Motion Under 28 U.S.C. § 2255)

Instructions

- 1. To use this form, you must be a person who is serving a sentence under a judgment against you in a federal court. You are asking for relief from the conviction or the sentence. This form is your motion for relief.
- 2. You must file the form in the United States district court that entered the judgment that you are challenging. If you want to challenge a federal judgment that imposed a sentence to be served in the future, you should file the motion in the federal court that entered that 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 any legal arguments, you must submit them in a separate memorandum. Be aware that any such memorandum may be subject to page limits set forth in the local rules of the court where you file this motion.
- 6. If you cannot pay for the costs of this motion (such as costs for an attorney or transcripts), you may ask to proceed *in forma pauperis* (as a poor person). To do that, you must fill out the last page of this form. 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 motion, you may challenge the judgment entered by only one court. If you want to challenge a judgment entered by a different judge or division (either in the same district or in a different district), you must file a separate motion.
- 8. When you have completed the form, send the original and ____ copies to the Clerk of the United States District Court at this address:

Clerk, United States District Court for Address City, State Zip Code

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.

- 9. <u>CAUTION:</u> You must include in this motion all the grounds for relief from the conviction or sentence that you challenge. And you must state the facts that support each ground. If you fail to set forth all the grounds in this motion, you may be barred from presenting additional grounds at a later date.
- 10. <u>CAPITAL CASES:</u> If you are under a sentence of death, you are entitled to the assistance of counsel and should request the appointment of counsel.

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

Unit	ed States District Court	District				
Name	(under which you were convicted):			Docke	t or Case No.:	
Place	of Confinement:		Priso	oner No.:	r No.:	
UNIT	ED STATES OF AMERICA	V.	Movant	. (include name under w	hich convicted)	
		MOTION				
1.	(a) Name and location of court which	entered the judgmen	of convicti	on you are challe	nging:	
	(b) Criminal docket or case number (if	f you know):				
2.	(a) Date of the judgment of conviction(b) Date of sentencing:					
3.	Length of sentence:					
4.	Nature of crime (all counts):					
5.	(a) What was your plea? (Check one) (1) Not guilty □	(2) Guilty		(3) Nolo conten	dere (no contest)	
6.	(b) If you entered a guilty plea to one what did you plead guilty to and what		_		er count or indictment,	
6.	If you went to trial, what kind of trial	did you have? (Chec	ek one)	Jury □	Judge only □	
7	Did you testify at a pretrial hearing, tri	ial or post-trial hear	no?	7es □	No □	

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Did you appeal from the judgment of conviction? Yes \square No \square
If you did appeal, answer the following:
(a) Name of court:
(b) Docket or case number (if you know):
(c) Result:
(d) Date of result (if you know):
(e) Citation to the case (if you know):
(f) Grounds raised:
(g) Did you file a petition for certiorari in the United States Supreme Court? Yes □ No □
If "Yes," answer the following:
(1) Docket or case number (if you know):
(2) Result:
(3) Date of result (if you know):
(4) Citation to the case (if you know):
(5) Grounds raised:
Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications, concerning this judgment of conviction in any court? Yes No
If any and the Original Origina Origina Origina Origina Origina Origina Origina Origina Origi
If your answer to Question 10 was "Yes," give the following information: (a) (1) Name of court:
(2) Dealest on accomplement (if you know).
(2) Docket or case number (if you know):
(3) Date of filing (if you know):

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(6) Did you receive a hearing where evidence was given on your motion, petition, or application? Yes □ No □ (7) Result: (8) Date of result (if you know): (b) If you filed any second motion, petition, or application, give the same information: (1) Name of court: (2) Docket of case number (if you know): (3) Date of filing (if you know): (4) Nature of the proceeding: (5) Grounds raised: (6) Did you receive a hearing where evidence was given on your motion, petition, or application? Yes □ No □ (7) Result: (8) Date of result (if you know): (c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application? (1) First petition: Yes □ No □ (2) Second petition: Yes □ No □ (d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not:		(4)	Nature of the proceeding:
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(2) Second petition: Yes □ No □	or a		
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(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not:	<i>(</i> 1)		
	(d)	If yo	ou did not appeal from the action on any motion, petition, or application, explain briefly why you did not:

For this motion, state every ground on which you claim that you are being held in violation of the Constitution, 12. laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum. **GROUND ONE:** (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): (b) Direct Appeal of Ground One: (1) If you appealed from the judgment of conviction, did you raise this issue? Yes \square № П (2) If you did not raise this issue in your direct appeal, explain why: (c) Post-Conviction Proceedings: (1) Did you raise this issue in any post-conviction motion, petition, or application? № П Yes □ (2) If you answer to Question (c)(1) is "Yes," state: Type of motion or petition: Name and location of the court where the motion or petition was filed: Docket or case number (if you know): Date of the court's decision: Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion, petition, or application?

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Yes □

AO 243 (Rev. 09/17) (4) Did you appeal from the denial of your motion, petition, or application? (5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal? Yes \square No □ (6) If your answer to Question (c)(4) is "Yes," state: Name and location of the court where the appeal was filed: Docket or case number (if you know): Date of the court's decision: Result (attach a copy of the court's opinion or order, if available): (7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: GROUND TWO: (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) Direct Appeal of Ground Two:

(1)	If you appealed from the judgment of conviction,	did you raise this issue?
(-)	j p	, ,

Yes □ No □

(2)	If you did not raise this issue in your direct appeal, explain why:							
Pos	Post-Conviction Proceedings:							
(1)	Did you raise	this issue in any post-conviction motion, petition, or application?						
	Yes □ No □							
(2)	2) If you answer to Question (c)(1) is "Yes," state: Type of motion or petition: Name and location of the court where the motion or petition was filed:							
Typ								
Naı								
Doc	cket or case nur	mber (if you know):						
Dat	e of the court's	decision:						
Res	sult (attach a co	py of the court's opinion or order, if available):						
	`							
(3)	Did you recei	ve a hearing on your motion, petition, or application?						
	Yes □	No □						
(4)	Did you appe	al from the denial of your motion, petition, or application?						
	Yes □	No □						
(5)	If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?							
	Yes □	No □						
(6)	If your answe	er to Question (c)(4) is "Yes," state:						
Naı	me and location	of the court where the appeal was filed:						
		mber (if you know):						
	e of the court's							
Res	sult (attach a co	py of the court's opinion or order, if available):						
(7)	If your answe	er to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this						
issu	ıe:							

UND THREE:				
a) S	supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):			
) [Direct Appeal of Ground Three:			
(1) If you appealed from the judgment of conviction, did you raise this issue?			
	Yes □ No □			
(2	2) If you did not raise this issue in your direct appeal, explain why:			
_				
c) P	Post-Conviction Proceedings:			
(1) Did you raise this issue in any post-conviction motion, petition, or application?			
	Yes □ No □			
(2	2) If you answer to Question (c)(1) is "Yes," state:			
T	Type of motion or petition:			
N	Name and location of the court where the motion or petition was filed:			
	Pocket or case number (if you know):			
_	Date of the court's decision:			

(2)	(2) If you answer to Question (c)(1) is "Yes," state:						
Тур	Type of motion or petition:						
Nan	ne and location	of the court where the motion or petition was filed:					
Doc	ket or case num	ber (if you know):					
Date	e of the court's	decision:					
Res	ult (attach a cop	y of the court's opinion or order, if available):					
(3)	Did you receiv	e a hearing on your motion, petition, or application?					
	Yes □	No □					
(4)	Did you appea	l from the denial of your motion, petition, or application?					
	Yes □	No □					
(5)	5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?						
	Yes □	No □					

the Direct Appeal of Ground Four: (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): (b) Direct Appeal of Ground Four: (1) If you appealed from the judgment of conviction, did you raise this issue? Yes □ No □ (2) If you did not raise this issue in your direct appeal, explain why: (c) Post-Conviction Proceedings: (1) Did you raise this issue in any post-conviction motion, petition, or application? Yes □ No □		
Result (attach a copy of the court's opinion or order, if available): (7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or rais issue: (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): (b) Direct Appeal of Ground Four: (1) If you appealed from the judgment of conviction, did you raise this issue? Yes \(\triangle \tri		Docket or case number (if you know):
(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or rais issue: UND FOUR:		Date of the court's decision:
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 (1) If you appealed from the judgment of conviction, did you raise this issue? Yes □ No □ (2) If you did not raise this issue in your direct appeal, explain why: (c) Post-Conviction Proceedings: (1) Did you raise this issue in any post-conviction motion, petition, or application? Yes □ No □ 		
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Yes No (2) If you did not raise this issue in your direct appeal, explain why: (c) Post-Conviction Proceedings: (1) Did you raise this issue in any post-conviction motion, petition, or application? Yes No (1)		
(c) Post-Conviction Proceedings: (1) Did you raise this issue in any post-conviction motion, petition, or application? Yes □ No □	(b)	Direct Appeal of Ground Four:
(1) Did you raise this issue in any post-conviction motion, petition, or application? Yes □ No □	(b)	(1) If you appealed from the judgment of conviction, did you raise this issue?
(1) Did you raise this issue in any post-conviction motion, petition, or application? Yes □ No □	(b)	(1) If you appealed from the judgment of conviction, did you raise this issue? Yes □ No □
		 (1) If you appealed from the judgment of conviction, did you raise this issue? Yes □ No □ (2) If you did not raise this issue in your direct appeal, explain why:
(2) If you answer to Question (c)(1) is "Yes," state:		 (1) If you appealed from the judgment of conviction, did you raise this issue? Yes □ No □ (2) If you did not raise this issue in your direct appeal, explain why: Post-Conviction Proceedings: (1) Did you raise this issue in any post-conviction motion, petition, or application?

13.

Type	e of motion or pet	cition:
Nam	ne and location of	the court where the motion or petition was filed:
D	1411	('f)
	ket or case numbe	
	e of the court's dec	
Kesi	uit (attach a copy o	of the court's opinion or order, if available):
(3)	Did you receive	a hearing on your motion, petition, or application?
	Yes □	No 🗆
(4)	Did you appeal f	From the denial of your motion, petition, or application?
	Yes □	No □
(5)	If your answer to	Question (c)(4) is "Yes," did you raise the issue in the appeal?
	Yes □	No □
(6)	If your answer to	Question (c)(4) is "Yes," state:
Nam	ne and location of	the court where the appeal was filed:
Doc	ket or case numbe	er (if you know):
Date	e of the court's dec	cision:
Resu	ult (attach a copy	of the court's opinion or order, if available):
(7)	If your answer to	Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise the
issue	e:	
		and the translation of manifestal and an artist of the same follows and the same of the sa
		s motion that you have <u>not</u> previously presented in some federal court? If so, which ot been presented, and state your reasons for not presenting them:

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	are challenging? Yes □ No □
If "Y	es," state the name and location of the court, the docket or case number, the type of proceeding, and the
issue	es raised.
Give	the name and address, if known, of each attorney who represented you in the following stages of the
	ment you are challenging:
(a) A	At the preliminary hearing:
(b) A	At the arraignment and plea:
(c) A	At the trial:
(d) A	At sentencing:
(e) (On appeal:
(f) I	In any post-conviction proceeding:
(g) (On appeal from any ruling against you in a post-conviction proceeding:
Wer	e you sentenced on more than one court of an indictment, or on more than one indictment, in the same cou
	at the same time? Yes \square No \square
Do y	you have any future sentence to serve after you complete the sentence for the judgment that you are
.111	enging? Yes \(\sum \) No \(\sum \)
	If so, give name and location of court that imposed the other sentence you will serve in the future:
	I so, give name and location of court that imposed the other sentence you will serve in the future:
(a) I	
(a) I	Give the date the other sentence was imposed: Give the length of the other sentence:

1

A one-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 became 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 such 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.

^{*} The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2255, paragraph 6, provides in part that:

Therefore we have been deadle Court and the fallow	
Therefore, movant asks that the Court grant the follow	ring relief:
or any other relief to which movant may be entitled.	
	Signature of Attorney (if any)
I declare (or certify, verify, or state) under penalty of punder 28 U.S.C. § 2255 was placed in the prison maili	perjury that the foregoing is true and correct and that this Motion ing system on
	(month, date, year)
Executed (signed) on	(date)
	Signature of Movant
	Signature of Movant
If the person signing is not movant, state relationship to	to movant and explain why movant is not signing this motion.