

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

APPLICATION FOR A WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2254
BY A PERSON IN STATE CUSTODY

_____, Petitioner,
Full Name and Prisoner Number

Case No. _____
(To be supplied
by the Court)

Complete Prison Address (Place of Confinement)

v.

_____, Respondent,
(Name of Warden or authorized person
having custody of petitioner)
(Do not use *et al.*)

and

_____, Additional Respondent.
(List additional persons having custody
of petitioner, if any)

Note: If the applicant is challenging a judgment which imposed a sentence to be served in the future, applicant must fill in the name of the state where the judgment of conviction was entered. If the applicant has a sentence to be served in the future under a federal judgment, which he/she wishes to challenge, he/she should file a motion under 28 U.S.C. § 2255, in the federal court which entered the judgment.

CONVICTION BEING CHALLENGED

- 1) Name and location of the court which entered the judgment of conviction you are challenging _____

- 2) Date judgment of conviction was entered _____
- 3) Case number (in state court) _____
- 4) Type and length of sentence imposed _____
- 5) Nature of the offense involved (all counts) _____

- 6) What was your plea? (check one)
Not Guilty ___ Guilty ___ Nolo Contendere ___
- 7) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, what did you plead guilty to and what did you plead not guilty to:

- 8) If you entered a plea of guilty pursuant to a plea bargain, state the terms and conditions of the agreement _____

- 9) Kind of trial (check one) Jury ___ Judge only ___
- 10) Did you testify at trial? Yes ___ No ___

DIRECT APPEAL

11) Did you appeal from the judgment of conviction? Yes ___ No ___

12) If you did not appeal, explain briefly why you did not: _____

(a) Did you seek permission to file a late appeal? Yes ___ No ___

13) If you did appeal, answer the following:

(a) Name of court: _____

(b) Docket number (if you know): _____

(c) Result (attach a copy if you have one): _____

(d) Date of result (if you know): _____

(e) Citation to the case (if you know): _____

(f) Grounds raised: _____

14) If your appeal was denied by the Connecticut Appellate Court, did you file a petition for certification with the Connecticut Supreme Court? Yes___ No ___

15) If you sought certification, answer the following:

(a) Date of decision (if you know): _____

(b) Citation to the case (if you know): _____

(c) Grounds raised (or attach a copy of the petition for certification if you have

one): _____

16). Did you file a petition for certiorari in the United States Supreme Court?
Yes_____ No_____

If yes, answer the following:

(a) Docket number (if you know): _____

(b) Result: _____

(c) Date of result (if you know): _____

(d) Citation to the case (if you know): _____

(e) Grounds raised: _____

POST-CONVICTION PROCEEDINGS

17) 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 state court? Yes ___ No ___

18) If your answer to Question 17 was "Yes," give the following information:

(a) FIRST petition, application or motion.

(1) Name of court: _____

(2) Docket number (if you know): _____

(3) Nature of proceeding: _____

_____ (4) Grounds raised: _____

(5) Did you receive an evidentiary hearing on your petition, application or motion? Yes ___ No ___

(6) Result: _____

(7) Date of result (if you know): _____

(8) Did you appeal the result to the highest state court having jurisdiction? Yes ___ No ___

If you did appeal, give the name of the court where the appeal was filed, the result, the case number, citation and date of the court's decision (or attach a copy of the court's opinion or order)

(9) If you did not appeal, briefly explain why you did not: _____

_____ (10) If your appeal was decided by the Connecticut Appellate Court, did you file a petition for certification to appeal the decision to the Connecticut Supreme Court? Yes ___ No ___

(11) If you sought certification, give the citation and date of the court's decision or attach a copy of the decision. Also attach a copy of the petition for certification or list the issues for which certification was sought.

(b) As to any SECOND petition, application or motion, give the following information:

(1) Name of court: _____

(2) Docket number (if you know): _____

(3) Nature of proceeding: _____

_____ (4) Grounds raised: _____

(5) Did you receive an evidentiary hearing on your petition, application or motion? Yes ___ No ___

(6) Result: _____

(7) Date of result (if you know): _____

(8) Did you appeal the result to the highest state court having jurisdiction? Yes ___ No ___

If you did appeal, give the name of the court where the appeal was filed, the result, the case number, citation and date of the court's decision (or attach a copy of the court's opinion or order)

(9) If you did not appeal, briefly explain why you did not: _____

(10) If your appeal was decided by the Connecticut Appellate Court, did you file a petition for certification to appeal the decision to the Connecticut Supreme Court? Yes ___ No ___

(11) If you sought certification, give the citation and date of the court's decision or attach a copy of the decision. Also attach a copy of the petition for certification or list the issues for which certification was sought.

c) As to any THIRD petition, application or motion, give the following information:

(1) Name of court: _____

(2) Docket number (if you know): _____

(3) Nature of proceeding: _____

(4) Grounds raised: _____

(5) Did you receive an evidentiary hearing on your petition, application or motion? Yes ___ No ___

(6) Result: _____

(7) Date of result (if you know): _____

(8) Did you appeal the result to the highest state court having jurisdiction? Yes ___ No ___

If you did appeal, give the name of the court where the appeal was filed, the result, the case number, citation and date of the court's decision (or attach a copy of the court's opinion or order)

(9) If you did not appeal, briefly explain why you did not: _____

(10) If your appeal was decided by the Connecticut Appellate Court, did you file a petition for certification to appeal the decision to the Connecticut Supreme Court? Yes ___ No ___

(11) If you sought certification, give the citation and date of the court's decision or attach a copy of the decision. Also attach a copy of the petition for certification or list the issues for which certification was sought.

CLAIMS

- 19) State concisely every ground on which you claim that you are being held in violation of the Constitution, laws or treaties of the United States. Summarize briefly the **facts** supporting each claim. If necessary, you may attach extra pages stating additional claims and supporting facts. You should raise in this petition all claims for relief which relate to the conviction being challenged.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

Ground One: _____

(a) Supporting Facts (Do not argue or cite law. Just briefly state the facts that support your claim): _____

(b) If you did not exhaust your state court remedies on Ground One, briefly explain why: _____

(c) Direct Appeal of Ground One:

(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, briefly explain

why: _____

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes _____ No _____

(2) If your answer to Question (d)(1) is "Yes," state the type of motion or petition, the name and location of the court where the motion or petition was filed, the case number (if you know), the date of the court's decision, and the result. Attach a copy of the court's opinion or order, if available:

(3) Did you receive a hearing on your motion or petition?
Yes _____ No _____

(4) Did you appeal from the denial of your motion or petition?
Yes _____ No _____

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? Yes _____ No _____

(6) If your answer to Question (d)(5) is "Yes," state the name and location of the court where the appeal was filed, the case number (if you know), the date of the court's decision, and the result. Attach a copy of the court's opinion or order, if available: _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," briefly explain why you did not raise this issue: _____

(e) Other Remedies: Describe any other procedures, such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: _____

Ground Two: _____

(a) Supporting Facts (Do not argue or cite law. Just briefly state the facts that support your claim): _____

(b) If you did not exhaust your state court remedies on Ground Two, briefly explain why: _____

(c) Direct Appeal of Ground Two:

(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, briefly explain why: _____

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes _____ No _____

(2) If your answer to Question (d)(1) is "Yes," state the type of motion or petition, the name and location of the court where the motion or petition was filed, the case number (if you know), the date of the court's decision, and the result. Attach a copy of the court's opinion or order, if available:

(3) Did you receive a hearing on your motion or petition?
Yes _____ No _____

(4) Did you appeal from the denial of your motion or petition?
Yes _____ No _____

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? Yes _____ No _____

(6) If your answer to Question (d)(5) is "Yes," state the name and location of the court where the appeal was filed, the case number (if you know), the date of the court's decision, and the result. Attach a copy of the court's opinion or order, if available: _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," briefly explain why you did not raise this issue: _____

(e) Other Remedies: Describe any other procedures, such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two: _____

Ground Three: _____

(a) Supporting Facts (Do not argue or cite law. Just briefly state the facts that support your claim): _____

(b) If you did not exhaust your state court remedies on Ground Three, briefly explain why: _____

(c) Direct Appeal of Ground Three:

(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, briefly explain why: _____

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes _____ No _____

(2) If your answer to Question (d)(1) is "Yes," state the type of motion or petition, the name and location of the court where the motion or petition was filed, the case number (if you know), the date of the court's decision, and the result. Attach a copy of the court's opinion or order, if available:

(3) Did you receive a hearing on your motion or petition?
Yes _____ No _____

(4) Did you appeal from the denial of your motion or petition?
Yes _____ No _____

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? Yes _____ No _____

(6) If your answer to Question (d)(5) is "Yes," state the name and location of the court where the appeal was filed, the case number (if you know), the date of the court's decision, and the result. Attach a copy of the court's opinion or order, if available: _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," briefly explain why you did not raise this issue: _____

(e) Other Remedies: Describe any other procedures, such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three: _____

Ground Four: _____

(a) Supporting Facts (Do not argue or cite law. Just briefly state the facts that support your claim): _____

(b) If you did not exhaust your state court remedies on Ground Four, briefly explain why: _____

(c) 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, briefly explain

why: _____

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes _____ No _____

(2) If your answer to Question (d)(1) is "Yes," state the type of motion or petition, the name and location of the court where the motion or petition was filed, the case number (if you know), the date of the court's decision, and the result. Attach a copy of the court's opinion or order, if available:

(3) Did you receive a hearing on your motion or petition?
Yes _____ No _____

(4) Did you appeal from the denial of your motion or petition?
Yes _____ No _____

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? Yes _____ No _____

(6) If your answer to Question (d)(5) is "Yes," state the name and location of the court where the appeal was filed, the case number (if you know), the date of the court's decision, and the result. Attach a copy of the court's opinion or order, if available: _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," briefly explain why you did not raise this issue: _____

(e) Other Remedies: Describe any other procedures, such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: _____

20) Please answer these additional questions about the petition you are filing:

(a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? Yes _____ No _____

If your answer is "No," state which grounds have not been so presented and briefly give your reason(s) for not presenting them: _____

(b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and briefly state your reasons for not presenting them: _____

SUCCESSIVE APPLICATIONS

This court is required to dismiss any claim presented in a second or successive petition that the federal court of appeals has authorized to be filed unless the applicant shows that each claim satisfies the requirements of 28 U.S.C. § 2244, as amended by Title I of the Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, § 106, 110 Stat. 1214 (Apr. 24, 1996).

21) Have you previously filed any type of petition, application or motion in a federal court regarding the conviction you challenge in this petition? Yes _____ No _____

If "Yes," state the name and location of the court, the case number, the type of proceeding, the issue raised, the date of the court's decision, and the result for each petition, application or motion filed. Attach a copy of any court opinions or orders,

if available: _____

22) If the answer to Question 21 is "Yes" and you are raising a claim that you did not presented in a prior federal petition, application or motion, have you obtained an order from the United States Court of Appeals for the Second Circuit authorizing this district court to consider this petition? Yes ___ No ___

If "Yes," please attach a copy of the order.

23) Do you have any petition or appeal **now pending** (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging?
Yes _____ No _____

If "Yes," state the name and location of the court, the case number, the type of proceeding and the issues raised: _____

LEGAL REPRESENTATION

24) Give the name and address, if known, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At 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 _____

25) Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time? Yes _____ No _____

26) Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes _____ No _____

(a) If "Yes," give the name and location of the court that imposed the other sentence you will serve in the future: _____

(b) Give the date the other sentence was imposed: _____

(c) Give the length of the other sentence: _____

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

TIMELINESS OF PETITION

27) If the judgment of conviction you are challenging in this petition became final over one year ago, you must explain why the one-year statute of limitations as codified

in 28 U.S.C. § 2244(d) does not bar your petition.¹

28) Are you presently serving a sentence imposed for a conviction other than the conviction being challenged in this motion? Yes ___ No ___

Wherefore, petitioner prays that the court grant him such relief to which he may be entitled in this proceeding.

¹The Antiterrorism and Effective Death Penalty Act of 1996 (“AEDPA”), as codified in 28 U.S.C. § 2244(d), provides in part that:

(1) A 1-year period of limitation shall apply to an application for writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of—

(A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;

(B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;

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

(D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

(2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

Petitioner's Original Signature

Signature of Attorney (if any)

Petitioner's Inmate Number

Attorney's Full Address and
Telephone Number

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty of perjury that he/she is the petitioner in this action, that he/she has read this petition and that the information contained in the petition is true and correct. 28 U.S.C. § 1746; 18 U.S.C. § 1621.

Executed at _____ on _____.
(Location) (Date)

Petitioner's Original Signature