

# NOTICE

EFFECTIVE  
SEPTEMBER 5, 2000

ALL INMATE CIVIL RIGHTS ACTIONS AND HABEAS CORPUS APPLICATIONS ARE TO BE SENT FOR PROCESSING AND FILING TO THE SYRACUSE DIVISIONAL OFFICE OF THE CLERK.

ALSO, REQUESTS FOR ANY FORMS NECESSARY FOR FILING A NEW ACTION OR HABEAS CORPUS APPLICATION ARE TO BE MADE TO THAT OFFICE. THE ADDRESS IS AS FOLLOWS:

CLERK, U.S. DISTRICT COURT  
FEDERAL BUILDING  
100 SOUTH CLINTON STREET  
SYRACUSE, NEW YORK 13261

**ATTENTION: INMATE LITIGATION UNIT**

MOTION UNDER 28 USC § 2255 TO VACATE, SET ASIDE, OR CORRECT  
SENTENCE BY A PERSON IN FEDERAL CUSTODY

(If movant has a sentence to be served in the future under a federal judgment which he or she wishes to attack, the movant should file a motion in the federal court which entered the judgment.)

MOTION TO VACATE, SET ASIDE, OR CORRECT SENTENCE BY A PERSON IN FEDERAL CUSTODY

*Explanation and Instructions—Read Carefully*

- (1) 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.
- (2) Additional pages are not permitted except with respect to the facts which you rely upon to support your grounds for relief. No citation of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.
- (3) Upon receipt, your motion will be filed if it is in proper order. No fee is required with this motion.
- (4) 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 form AO 240 or any other form required by the court, setting forth information establishing your inability to pay the 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.
- (5) 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 different districts, you must file separate motions as to each such judgment.
- (6) 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.
- (7) When the motion is fully completed, the original and at least two copies must be mailed to the Clerk of the United States District Court whose address is
- (8) Motions which do not conform to these instructions will be returned with a notation as to the deficiency.

MOTION UNDER 28 USC § 2255 TO VACATE, SET ASIDE, OR CORRECT  
SENTENCE BY A PERSON IN FEDERAL CUSTODY

<b>United States District Court</b>	District _____	
Name of Movant _____	Prisoner No. _____	Case No. _____

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

UNITED STATES OF AMERICA	V.	(name under which convicted)
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**MOTION**

1. Name and location of court which entered the judgment of conviction under attack \_\_\_\_\_

\_\_\_\_\_

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

3. Length of sentence \_\_\_\_\_

4. Nature of offense involved (all counts) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

5. What was your plea? (Check one)
- (a) Not guilty **G**
  - (b) Guilty **G**
  - (c) Nolo contendere **G**

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

6. If you pleaded not guilty, what kind of trial did you have? (Check one)
- (a) Jury **G**
  - (b) Judge only **G**

7. Did you testify at the trial?  
Yes **G** No **G**

8. Did you appeal from the judgment of conviction?  
Yes **G** No **G**

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 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) As to any second petition, application or motion give the same information:

(1) Name of court \_\_\_\_\_

(2) Name of proceeding \_\_\_\_\_

\_\_\_\_\_

(3) Grounds raised \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes **G** No **G**

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

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

(c) Did you appeal, to an appellate federal court having jurisdiction, the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes **G** No **G**

(2) Second petition, etc. Yes **G** No **G**

(d) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

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12. 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 ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

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 these proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you have other than those listed. However, you should raise in this motion all available grounds (relating to this conviction) on which you based your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The motion will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which 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 a 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 (state *briefly* without citing cases or law): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

B. Ground two: \_\_\_\_\_

\_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

C. Ground three: \_\_\_\_\_

\_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

D. Ground four: \_\_\_\_\_

\_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

13. If any of the grounds listed in 12A, B, C, and D were not previously presented, state briefly what grounds were not so 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 **G** No **G**

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 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 and 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 name and location of court which imposed sentence to be served in the future: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(b) Give date and length of the above sentence: \_\_\_\_\_  
\_\_\_\_\_

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the 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 under penalty of perjury that the foregoing is true and correct. Executed on

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Movant

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

**APPLICATION TO PROCEED  
WITHOUT FULL PREPAYMENT  
OF FEES; AFFIDAVIT AND  
AUTHORIZATION FORM**

Plaintiff

v.

Defendant(s)

CASE NUMBER:

I, \_\_\_\_\_ declare that I am the (check appropriate box)

petitioner/plaintiff/movant                       other

in the above-entitled proceeding; that in support of my request to proceed without prepayment of fees or costs under 28 USC. § 1915 I declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief sought in the complaint / petition / motion.

In support of this application, I answer the following questions under penalty of perjury:

1. Are you currently incarcerated?:                       Yes     No (If "No" go to Part 2)

If "Yes" state the place of your incarceration: \_\_\_\_\_

Are you employed at the institution?                       Yes     No

Do you receive any payment from same?                       Yes:     No

**Notice to**

**Inmates:      The Certificate portion of this affidavit must be completed.**

2. Are you currently employed?:                       Yes     No

a. If the answer is "Yes" state the amount of your take-home salary or wages and pay period and give the name and address of your employer.

b. If the answer is "No" state the date of your last employment, the amount of your take home salary or wages and the name and address of your last employer.

3. In the past twelve months have you received any money from any of the following sources?

a. Business, profession or other self employment                       Yes     No

b. Rent payments, interest or dividends                       Yes     No

c. Pensions, annuities or life insurance payments                       Yes     No



