UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
500 Pearl Street, Room 230
New York, New York 10007

RUBY J. KRAJICK
CLERK OF COURT

Instructions for Filing Petition for a Writ of *Habeas Corpus* under 28 U.S.C. § 2241

To Be Used by Prisoners

1. **Who should use this form:** You should use this form if you are in federal custody or subject to a custodial order of the United States and you wish to challenge the execution – not the validity – of your conviction or sentence (such as, for example, that the BOP miscalculated a sentence or failed to award good time credits properly). A Section 2241 *habeas corpus* petition may be appropriate in exceptional cases, where you can show that your remedy under 28 U.S.C. § 2255 is "inadequate or ineffective" and that serious constitutional questions may be raised absent collateral review. Section 2241 *habeas corpus* petitions must be filed in the district where you are confined.

If you are challenging your removal proceeding, immigration detention or other immigration related issues, you should use the form Petition for a Writ of *Habeas Corpus* under 28 U.S.C. § 2241 (For Immigration Matters).

2. **Who should *not* use this form:** If you want to challenge the validity of a federal judgment of conviction and sentence, you should file a motion under 28 U.S.C. § 2255 in the federal court that entered that judgment. If you want to challenge the validity of a state judgment of conviction and sentence, you must first exhaust your state court remedies in the state appellate process and then file a petition for a writ of *habeas corpus* under 28 U.S.C. § 2254 in the federal district court where your state judgment of conviction was entered.

3. **Caption:** The caption is located in the top left corner on the first page of the petition. You, as the person filing the petition, are the "petitioner." Generally, the Warden or Superintendent of the institution in which you are confined is the "respondent." The respondent may also be the government official responsible for your confinement.

4. **Signature:** The petition must be signed with a pen.

5. **Fee:** The filing fee for a *habeas* petition brought under 28 U.S.C. § 2241 is $5. If you cannot afford to pay this fee, you can request that the Court waive the fee by submitting a Request to Proceed *In Forma Pauperis*.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

_____
_____
_____

Petitioner,

v.

_____
_____
_____
_____
_____

Respondent(s).

PETITION FOR A WRIT OF *HABEAS CORPUS* UNDER 28 U.S.C. § 2241

_____Civ. _____ ( )

YOU MUST COMPLETE THIS ENTIRE FORM

1. Parties in this Petition:

a. You are the Petitioner. List your name and address. If you are currently in custody, include your identification number and the name and address of your current place of confinement.

Petitioner's Name: _____

Prisoner ID#: _____

Alien #: _____

Current Institution:_____

Address: _____

_____

b. List all Respondents by name, position, and place of employment. Make sure that the respondent(s) listed below are identical to those contained in the above caption. Attach additional pages of paper if necessary.

Respondent No. 1

Name: _____

Where Currently Employed: _____

Address: _____

_____

Respondent No. 2

Name: _____

Where Currently Employed :_____

Address: _____

_____

Respondent No. 3

Name: _____

Where Currently Employed :_____

Address: _____

_____

Respondent No. 4

Name: _____

Where Currently Employed: _____

Address: _____

_____

2. This petition concerns (check one):

a. ☐ a conviction and/or a sentence
b. ☐ calculation of sentence
c. ☐ parole
d. ☐ prison disciplinary proceeding
e ☐ detainer
f. ☐ other (explain) _____

3. Provide the following information regarding the conviction(s) and sentence(s) for which you are currently incarcerated.

a. Name(s) and location(s) of court: _____

b. Case Number(s): _____

c. Charge(s) of which you were convicted: _____

_____

d. What was your plea?
(1) Not guilty ☐
(2) Guilty ☐
(3) Nolo contendere ☐

e. Did you appeal from the judgment of conviction? Yes ☐ No ☐

4. If you did appeal, answer the following:

a. Name of court: _____ Case #: _____

b. Result: _____

c. Date of opinion and mandate (if known): _____

5. If you are challenging your conviction or sentence:

a. Have you previously filed a motion under 28 U.S.C. § 2255?
Yes ☐ No ☐

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

_____

_____

_____

_____

_____

_____

b. Challenges to your federal conviction or sentence can be raised only by motion under 28 U.S.C. § 2255, unless the § 2255 motion is "inadequate or ineffective to test the legality of [your] detention." 28 U.S.C. § 2255 (e). If you are challenging your conviction or sentence, please explain what serious constitutional questions may be raised if the Court does not consider your *habeas* petition:_____

_____

_____

_____

_____

6. If this case concerns parole,

a. Does it concern (check one): ☐ revocation OR ☐ denial?

b. When and where was your parole revoked or denied? _____

_____

7. If this case concerns a prison disciplinary proceeding, when and where did this proceeding take place? _____

8. If this case concerns a detainer, does the detainer concern a (check one):
☐ federal matter ☐ state matter ☐ immigration matter?

9. In the spaces below, set forth every ground that supports your claim that you are incarcerated unlawfully. Briefly summarize the specific facts in support of each ground raised. You may attach additional pages if necessary to raise additional grounds or provide additional facts.

a. Ground One: _____

_____

_____

_____

Supporting FACTS: _____

_____

_____

_____

_____

_____

Exhaustion:

(1) Have you presented Ground One 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), including any appeals; if no, please explain why not: _____

_____

_____

b. Ground Two: _____

_____

_____

_____

Supporting FACTS: _____

_____

_____

_____

_____

_____

Exhaustion:

(1) Have you presented Ground Two 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), including any appeals; if no, please explain why not:_____

_____

_____

c. Ground Three: _____

_____

_____

_____

Supporting FACTS: _____

_____

_____

_____

_____

_____

Exhaustion:

(1) Have you presented Ground Three 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), including any appeals; if no, please explain why not: _____

_____

_____

d. Ground Four: _____

_____

_____

_____

Supporting FACTS: _____

_____

_____

_____

_____

_____

Exhaustion:

(1) Have you presented Ground Four 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), including any appeals; if no, please explain why not:_____

_____

_____

_____

10. Based on the grounds raised above, what are you asking the Court to do?

_____

_____

_____

_____

_____

_____

DECLARATION

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

_____ _____
(Date) Signature of Petitioner

IF MAILED BY PRISONER:

I declare under the 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