

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

A petition under 28 U.S.C. § 2241 is generally intended to be used with respect to incarceration pursuant to such determinations as INS decisions, mental health commitments, lost good time credits claims, and other state or federal decisions (other than state or federal criminal convictions) by which the petitioner is held in custody.

If petitioner wishes to attack a **federal court judgment** under which a sentence was imposed, petitioner should file a motion under **28 U.S.C. § 2255** in the federal court which entered the judgment.

If petitioner wishes to attack a **state court judgment** under which a sentence was imposed, petitioner should file a petition under **28 U.S.C. § 2254** in the federal court which serves the county where the judgment was entered.

Check the Western District's web site at www.nywd.uscourts.gov for copies of many of the Court's forms and other useful information.

INSTRUCTIONS - READ CAREFULLY

1. This petition must be legibly handwritten or typewritten, signed by the petitioner and subscribed to under penalty of perjury as being true and correct. 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. 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 of a fee of \$5.00, the petition will be filed if it is in proper order.

If you do not have the necessary filing fee, you may request permission to proceed *in forma pauperis* by completing the Court's form motion to proceed *in forma pauperis*. If you are a prisoner who wishes to proceed *in forma pauperis*, you must have an authorized official at your correctional facility complete the certificate as to the amount of money and securities on deposit to your credit in your inmate account.

4. **You must include all grounds for relief and all facts supporting such grounds for relief in the petition you file. You may not be permitted the opportunity to raise any claim in a second or successive habeas corpus application that was not presented in the original habeas corpus application.** See 28 U.S.C. § 2244(b).
5. **A one-year statute of limitations may apply to your application for a writ of habeas corpus; the limitations period runs from the latest of several different points in time, so you must check the statute to see which date may apply to your petition.** See 28 U.S.C. 2244(d)(1). You are also subject to a requirement that you must exhaust your administrative remedies before coming to federal court. See Carmona v. United States Bureau of Prisons, 243 F.3d 629 (2d Cir. 2001).
6. When the petition is fully completed, **the original and two copies** must be mailed to the Clerk of the United States District Court at either of the following addresses:

304 U.S. Courthouse
68 Court Street
Buffalo, New York 14202
(716) 551-4211 or (716) 551-5759

2120 U.S. Courthouse
100 State Street
Rochester, New York 14614
(585) 263-6263

7. Petitions which are insufficient will be returned with a statement of the deficiency.

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

_____,
(Full name under which you were convicted)

Petitioner,

v.

Civil No.: _____

_____,
(Name of warden, superintendent, jailor or
authorized person having custody of petitioner)

Respondent.

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

Petitioner's Name (and Prisoner Number, if applicable): _____

Petitioner's Place of Confinement: _____

1. Provide the following information regarding the determination which you are challenging in this petition. (If you wish to challenge more than one determination, you should file a separate petition for each determination.)

* Type of determination: _____

* Who made the determination: _____

* Where was the determination made: _____

* Did you appeal the determination?: Yes _____ No _____

* If you **did** appeal:

* To whom did you appeal: _____

* When was the appeal decided: _____

* What was the result of the appeal: _____

* If you **did not** appeal, state why you did not: _____

2. State **concisely** every ground on which you claim that you are being held unlawfully. Summarize **briefly** the **facts** supporting each ground:

(a) Ground one: _____

Supporting facts (tell your story briefly without citing cases or law): _____

(b) Ground two: _____

Supporting facts (tell your story briefly without citing cases or law): _____

(c) Ground three: _____

Supporting facts (tell your story briefly without citing cases or law): _____

(d) Ground four: _____

Supporting facts (tell your story briefly without citing cases or law): _____

3. Have you filed any other habeas corpus applications with respect to this incarceration?
YES _____ NO _____

If the answer is YES, please answer the following questions:

Approximate date of filing: _____
Court where petition filed: _____
Docket number of proceeding: _____
Name of judge assigned to proceeding: _____
Disposition: _____

WHEREFORE, the petitioner prays that the Court grant petitioner the relief to which he or she may be entitled in this proceeding. (You may also list any specific relief you wish to obtain.) _____

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: _____
(DATE)

(SIGNATURE OF PETITIONER)

(SIGNATURE OF ATTORNEY (IF ANY))