

**INSTRUCTIONS FOR FILING A PETITION FOR WRIT OF
HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241 & § 2254**

-READ CAREFULLY-

- 1) Rule 81.3(a) of the Local Rules of this court requires that petitions filed by prisoners in custody be submitted on this court's approved form. You may obtain copies of this form from the Clerk of this court. The petition must be typewritten or neatly handwritten and signed by the petitioner. It is not necessary to swear to the petition under oath before a notary public. However, you must attest under penalty of perjury that your petition is true and correct. You are warned that any false statement of a material fact may subject you to further prosecution and conviction.
- 2) All questions must be answered briefly in the proper space on the form. Additional pages may be used only if there is not enough space on the form. You may not answer a question by referring to another document, such as "see attached" or "see brief." If you refer to other documents, such as court rulings or trial transcripts, you should, if possible, attach copies of them as exhibits to the petition. You do not need to cite cases or statutes. Briefs or arguments are not to be submitted unless requested by the court.
- 3) **You should list in your petition all possible reasons why your conviction or sentence should be set aside. If you fail to do so, you normally will be prohibited from presenting additional reasons in another petition. Once the court has ruled on your habeas claims, you may not file another habeas petition attacking the same conviction or sentence without prior permission from the U.S. Court of Appeals. You should therefore prepare your petition with care.**
- 4) The filing fee for a petition for habeas corpus is **\$5.00**, which should be sent in with the petition. If you cannot pay the filing fee, you may request permission to file as a poor person, or "in forma pauperis." To do so, you must complete and sign this court's form, titled "Application For Leave To Proceed Without Prepayment Of Fees And Affidavit." You must also send in a certified copy of your trust fund account statement. Prison officials for each prison or jail can give you a paper showing all money you received during the six months before you filed your petition. The court will then decide whether you may proceed without payment of the filing fee. Generally, prisoners with income from a prison job or regular gifts from outsiders must pay the \$5.00 fee.
- 5) When the petition is fully completed, mail the original petition and any exhibits – plus two copies of the petition together with the exhibits if you are incarcerated in a prison, and three copies if you are incarcerated in a jail – to the Clerk of the United States District Court, Prisoner Correspondent, 219 South Dearborn Street, Chicago, Illinois 60604. After your petition and copies are received, the court will first decide whether you will be permitted to proceed in forma pauperis if the filing fee was not paid. The court will then review the petition, any exhibits to the petition, and published reports of court decisions relating to your case. If it is clear from the petition and exhibits that you are not entitled to habeas relief, then the court will dismiss the petition without ordering a response from the state. If it appears that you may have a habeas claim, the state will be ordered to respond to the petition. Always keep the court informed of your address; failure to do so may result in dismissal of your case.
- 6) You may request that counsel be appointed to represent you. You should use this court's form, and you must include a properly completed application for leave to proceed in forma pauperis, even if you have paid the filing fee. Prisoners have no right to have an attorney help them in a habeas corpus petition, and the court does not usually appoint counsel. The court normally appoints an attorney only (a) in death penalty cases, (b) where an evidentiary hearing will be required, or (c) where, given the difficulty of the case and the petitioner's ability, it appears that the petitioner cannot succeed without an attorney but would have a reasonable chance of success if an attorney were appointed.