

**INFORMATION AND INSTRUCTIONS
FOR FILING MOTION TO REDUCE OR CORRECT SENTENCE PURSUANT TO
RULE 35 OF THE FEDERAL RULES OF CRIMINAL PROCEDURE, PETITION FOR A
WRIT OF HABEAS CORPUS BY A PERSON IN FEDERAL CUSTODY, OR PETITION
FOR A WRIT OF HABEAS CORPUS BY A PERSON ATTACKING A STATE DETAINER
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

You should follow these instructions carefully. The failure to do so may result in your petition not being filed and considered by the court, or at least being delayed. If you add additional pages, be sure to identify what is being continued or the number of the additional ground(s).

1. The attached form is designed to assist you in the preparation of any of the following pleadings:

- (a) A motion to reduce sentence pursuant to Rule 35 of the Fed.R.Crim.P.
- (b) A petition for a writ of habeas corpus by a person in federal custody (28 U.S.C. §2241); or
- (c) A petition for a writ of habeas corpus by a person attacking a detainer issued by a state court or authority based on an untried indictment, information or complaint.

On the first page of the form, you must indicate (by checking the appropriate box) which remedy you wish to pursue. If you seek relief under Rule 35 or a writ of habeas corpus, you need answer questions 1-19 (inclusive) and 29 only. If you wish to attack the validity of a state detainer, you need answer questions 20-29 (inclusive) only. All required questions should be answered fully in the appropriate spaces on the form. The petition or motion must be signed and include a declaration under penalty of perjury. You are cautioned that any deliberate false statement of material fact may serve as a basis for prosecution and conviction for perjury. You should, therefore, exercise care to assure that all answers are true, correct and complete.

2) Extra pages are not permitted, except that up to two additional pages (8 ½" x 11") may be attached if necessary to complete your answers to questions 17 or 28. A copy of an appellate court opinion or order specifically concerning the basis for your detention may also be attached. Citation of legal authority is not necessary and no briefs or argument are to be submitted unless specifically requested by an order of the court.

3) If you are attacking the validity of a state detainer, your attention is directed to the requirement that you first exhaust available judicial remedies of the charging state before seeking relief in federal court.

4) Under Fed.R.Crim.P. 35, the district court may correct an illegal sentence at any time, but the jurisdiction of the district court to correct a sentence imposed in an illegal manner or reduce a sentence is limited to a period within 120 days after the following:

- (a) imposition of sentence;

- (b) receipt by the district court of a mandate issued upon affirmance of the judgment or dismissal of the appeal; or
- (c) entry of an order or judgment of the Supreme Court denying review of or having the effect of upholding a judgment of conviction.

5) When your petition or motion is fully completed, the original and four copies must be mailed to the clerk of the United States District Court whose address is:

Clerk, U.S. District Court
District of Nevada
400 South Virginia Street
Suite 301
Reno, Nevada 89501

OR

Clerk, U.S. District Court
District of Nevada
333 Las Vegas Boulevard South
Room 1334
Las Vegas, Nevada 89101

6) If you submit a petition for writ of habeas corpus, your petition must be accompanied by the required filing fee of \$5.00. No filing fee is required for motions under Fed.R.Crim.P. 35.

7) If you do not have the necessary filing fee, you may request permission to proceed in forma pauperis, in which event you must execute the attached motion and declaration setting forth information regarding your inability to pay costs and fees. You must also have an authorized officer of the penal institution complete the certificate as to the amount of money or securities on deposit to your credit in an account in the institution. If your prison account exceeds \$75.00, you must pay the filing fee as required by Local Rule 215 of the Local Rules of this district court.

8) Petitions or motions which do not conform to these instructions will not be filed, but will be returned by the clerk with a notation as to the deficiency.

9) Except for the original petition or motion which requires the original and four copies, you must furnish an original and one copy of all motions, pleadings, correspondence or other documents submitted to the court for consideration. You must furnish one additional copy to the clerk if you wish to have a conformed copy returned to you by mail.

10) You must furnish the respondent or his attorney with a copy of all such documents submitted to the court. Each original document (except the original petition or motion) must include a certificate of service stating the date a copy of the document was mailed to the respondent or his attorney and the address to which it was mailed. Pursuant to Local Rule 160-3 of the Local Rules of this court, any pleading or other document received which fails to include a certificate of service may be disregarded by the court or returned. A certificate of service may be in the following form:

“I hereby certify that a copy of the foregoing pleading/document was mailed to _____ at _____ on _____, 20____.”
(Opposing Party or Counsel) (Address) (Date)

(Signature)

- 11) You must notify the clerk and the respondent or his attorney immediately in writing of any change in your address.
- 12) The United States Magistrate, the clerk of court and deputy clerks are officers of the court and are prohibited from giving legal advise. Questions of this nature should be directed to an attorney.