

**INFORMATION AND INSTRUCTIONS  
FOR FILING A MOTION TO VACATE SENTENCE  
PURSUANT TO 28 U.S.C. § 2255  
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 preparation of a Motion to Vacate, Set Aside or Correct Sentence. In order for your motion to be considered by the district court, it must be typewritten or legibly handwritten. All questions must be answered concisely in the appropriate spaces on the form. The motion must be signed and include a declaration under penalty of perjury. You are cautioned that any false statement of material fact may serve as 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 question #17. A copy of an appellate court opinion or order specifically concerning your conviction 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) In your motion you should raise all available grounds for relief. If you fail to do so, you may be barred from presenting additional grounds at a later date. Rule 9 of the Supreme Court Rules governing §2255 proceedings provides that a second or successive motion may be dismissed if the judge finds that it fails to allege new and different grounds for relief and the prior determination was on the merits or, if new and different grounds are alleged, the judge finds the failure of the movant to assert those grounds in a prior motion constitutes an abuse of this procedure.
- 4) The following list of the most frequently raised grounds for relief in post-conviction proceedings is furnished for your information only. This list is not complete and you may raise any other grounds for relief you may have.
  - (a) denial of effective assistance of counsel;
  - (b) denial of right of appeal;
  - (c) conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge or the consequences of the plea;
  - (d) conviction obtained by use of coerced confession;
  - (e) conviction obtained by use of evidence obtained pursuant to an unlawful search and seizure;
  - (f) conviction obtained by use of evidence obtained pursuant to an unlawful arrest;

- (g) conviction obtained by a violation of privilege against self-incrimination;
- (h) conviction obtained by the unlawful failure of the prosecution to disclose evidence favorable to the defendant;
- (i) conviction obtained by a violation of the protection against double jeopardy;
- (j) conviction obtained by the action of a grand or petit jury which was unconstitutionally selected and impaneled;
- (k) conviction was obtained by the knowing use of perjured testimony;
- (l) denial of compulsory process to obtain witnesses favorable to the defendant;
- (m) sentence imposed is cruel and unusual punishment;
- (n) conviction obtained by the use of evidence obtained pursuant to an unlawful lineup or identification procedure;
- (o) denial of speedy trial; and
- (p) conviction was obtained as a result of a plea of guilty or trial while the defendant was mentally incompetent.

5) On a single motion you may challenge the judgments of only one court. If you seek to challenge the judgments entered by different judges, either in the same or different districts, you must file separate motions as to each judgment in the appropriate district.

6) When your motion is fully completed, the original and three 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

7) No filing fee is required. However, if you do not have the necessary funds for transcripts, counsel, appeal or other costs associated with a motion of this type, you may request permission to proceed in forma pauperis. To do this 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 indicating the amount of money or securities on deposit to your credit in any account in the institutions.

8) **Motions which do not conform to these instructions will not be filed**, and will be returned by the clerk with a notation as to the deficiency.

9) Except for the original motion which requires an original and three copies, you must furnish an original and one copy of all motions, pleadings, correspondence or other documents submitted to the court for filing and 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 documents submitted by you to the court. Each original document (except the original 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 5-1 and LCR 47-11 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 advice. Questions of this nature should be directed to an attorney.