

INMATE FORM FOR WRIT OF HABEAS CORPUS

INSTRUCTIONS – READ CAREFULLY

(NOTE: O.C.G.A. §9-10-14(a) requires the proper use of this form, and failure to use this form as required will result in the clerk of any court refusing to accept the action for filing.)

1. Any action filed by an inmate of a state or local penal or correctional institution against the state or a local government or against any agency or officer of a state or local government must be filed on the appropriate form or forms promulgated by the Administrative Office of the Courts of Georgia.
2. This application must be legibly handwritten or typewritten, and signed by the petitioner. Any false statement of a material fact may serve as the basis for prosecution for perjury. All questions must be answered concisely in the proper space on the form.
3. Any inmate may submit with the complaint or other initial pleading any additional matter in any form if the pleading includes the form or forms attached hereto. Material attached to the forms should be legibly handwritten, typewritten, or copied.
4. Upon receipt of the appropriate filing fee or if permission to proceed in forma pauperis has been granted, your petition will be filed if it is in proper order.
5. If the inmate wishes to file an affidavit of indigency, it must be accompanied by a certification from the institution wherein the inmate is incarcerated that the financial statement correctly states the amount of funds in any and all custodial accounts held with the institution.
6. O.C.G.A. §42-12-1 et seq. provides that an inmate's institutional account shall be frozen, and funds seized for court costs and fees. Additionally, the filing of frivolous litigation shall result in a deduction from the account.
7. Any action brought pursuant to this article shall be filed within one year in the case of a misdemeanor, except as otherwise provided in Code Section 40-13-33, or within four years in the case of a felony, other than one challenging a conviction for which a death sentence has been imposed or challenging a sentence of death. O.C.G.A. §9-14-42(c).
8. Any Inmate Form for Writ of Habeas Corpus which does not conform to these instructions will be returned with a notation as to the deficiency.
9. These forms may be obtained at the Administrative Office of the Courts' website (<http://www.georgiacourts.gov/index.php/court-forms/101>) or from the Administrative Office of the Courts through the head of the institution in which the inmate is incarcerated.

IN THE SUPERIOR COURT OF _____
STATE OF GEORGIA

_____,
Petitioner
_____,
Inmate Number

Civil Action No. _____

vs.

_____,
Warden
_____,
Respondent
(Name of Institution where you are now located)

Habeas Corpus

APPLICATION FOR WRIT OF HABEAS CORPUS

PART I: BACKGROUND INFORMATION ON YOUR CONVICTION

1. Name, county, and court which entered the judgment of conviction under attack:

2. Date of conviction: _____

(Please Note: O.G.C.A. § 9-14-42(c) mandates that applications for writ of habeas corpus must be filed within a certain time. Please see Instructions (7) for more information.)

3. Length of sentence(s): _____

4. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time? Yes No

5. Name of offense(s). List all counts: _____

6. What was your plea? Please check one:

- Guilty
- Guilty but mentally ill
- Nolo contendere
- Not guilty

If you entered a guilty plea to one count or indictment, and a not guilty or nolo contendere plea to another count or indictment, give details: _____

7. Kind of trial. Please check one:

- Jury
- Judge only

8. Did you testify at the trial? Yes No

9. Did you appeal from the conviction? Yes No

10. If you did appeal, answer the following:

Name of appellate court to which you appealed: _____

Result of appeal: _____

Date of result: _____

11. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this conviction in any state or federal court?

Yes No

12. If your answer to 11 was "Yes," give the following information: (**Note:** If more than three petitions, please use a separate sheet of paper and use the same format to list them.)

A. Name of court and case number:

What kind of case or action was this? _____

All grounds raised (attach extra sheet of paper if necessary) : _____

Did a judge hear the case? Yes No Did witnesses testify? Yes No

Name of Judge: _____

Result: _____

Date of Result: _____

B. As to any second petition, application or motion, give the same information.

Name of court and case number:

What kind of case or action was this? _____

All grounds raised (attach extra sheet of paper if necessary) : _____

Did a judge hear the case? Yes No Did witnesses testify? Yes No

Name of Judge: _____

Result: _____

Date of Result: _____

C. As to any third petition, application or motion, give the same information.

Name of court and case number:

What kind of case or action was this? _____

All grounds raised (attach extra sheet of paper if necessary) : _____

Did a judge hear the case? Yes No Did witnesses testify? Yes No

Name of Judge: _____

Result: _____

Date of Result: _____

D. Did you appeal to the Georgia Supreme Court or the Georgia Court of Appeals from the result taken on any petition, application, or motion listed above?

First petition, application or motion: Yes No

Second petition, application or motion: Yes No

Third petition, application or motion: Yes No

E. If you did not appeal from the denial of relief on any petition, application or motion, explain briefly why you did not: _____

F. If you appealed to the highest state court having jurisdiction, did you file a petition for certiorari in the United States Supreme Court to review the denial of your petition by the Georgia Supreme Court or the Georgia Court of Appeals? Yes No

13. Do you have any petition or appeal now pending in any court, either state or federal, as to the conviction under attack? Yes No

14. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

At preliminary hearing: _____

At arraignment and plea: _____

At trial: _____

At sentencing: _____

On appeal: _____

In any post-conviction proceeding: _____

On appeal from any adverse ruling in a post-conviction proceeding: _____

15. Do you have any other sentence, either state or federal, to serve after you complete the sentence imposed by the conviction under attack? Yes No

If so, give the name and location of the court(s) which impose any other sentence:

State the date and length of any other sentence to be served: _____

Have you filed, or do you contemplate filing, any petition attacking the judgment(s) which imposed any other sentence? Yes No

PART II: STATEMENT OF YOUR CLAIMS

State concisely every ground on which you now claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting the same.

1.

GROUND ONE: _____

SUPPORTING FACTS. (Tell your story *briefly* without citing cases or law): _____

2.

GROUND TWO: _____

SUPPORTING FACTS. (Tell your story *briefly* without citing cases or law): _____

3.

GROUND THREE: _____

SUPPORTING FACTS. (Tell your story *briefly* without citing cases or law): _____

4.

GROUND FOUR: _____

PART III: OTHER CLAIMS NOT PRESENTED TO A COURT BEFORE THIS

If any of the grounds listed in PART II were not previously presented in any other court, state or federal, state *briefly* what grounds were not so presented, and give your reasons for not presenting them:

Wherefore, petitioner prays that the Court grant relief to which the petitioner may be entitled in this proceeding.

Date

Signature and Address of Petitioner's
Attorney (if any attorney)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing statements made in this Application for Writ of Habeas Corpus are true and correct.

Executed on _____
Date

Signature of Petitioner

Sworn to and subscribed before me this
_____ day of _____, 20____.

Notary Public or Other Person Authorized to Administer Oaths

Please note that under O.C.G.A. §9-14-45 service of a petition of habeas corpus shall be made upon the person having custody of the petitioner. If you are being detained under the custody of the Georgia Department of Corrections, an additional copy of the petition must be served on the Attorney General of Georgia. If you are being detained under the custody of some authority other than the Georgia Department of Corrections, an additional copy of the petition must be served upon the district attorney of the county in which the petition is filed. Service upon the Attorney General or the district attorney may be had by mailing a copy of the petition and a proper certificate of service.