

MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT  
SENTENCE BY A PERSON IN FEDERAL CUSTODY

If movant has a sentence to be served in the future under a federal judgment which he wishes to attack, he should file a motion in the federal court which entered the judgment.

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*Instructions - Read Carefully*

- (1) This motion must be legibly handwritten or typewritten, and signed by the movant under the penalty of perjury. 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) Additional pages are not permitted except with respect to the facts which you rely upon to support your grounds for relief. 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, your motion will be filed if it is in proper order. No fee is required with this motion.
- (4) If you do not have the necessary funds for transcripts, counsel, appeal, and other costs connected with a motion of this type, you may request permission to proceed *in forma pauperis*, in which event you must execute form AO 240 or any other form required by the court, setting forth information establishing your inability to pay the costs. If you wish to proceed *in forma pauperis*, you must have an authorized officer at the penal institution complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution.
- (5) Only judgments entered by one court may be challenged in a single motion. If you seek to challenge judgments entered by different judges or divisions either in the same district or in different districts, you must file separate motions as to each such judgment.
- (6) Your attention is directed to the fact that you must include all grounds for relief and all facts supporting such grounds for relief in the motion you file seeking relief from any judgment of conviction.
- (7) When the motion is fully completed, the original and at least two copies must be mailed to the Clerk of the United States District Court whose address is 301 North Miami Avenue, Miami, Florida 33128-7788.
- (8) Motions which do not conform to these instructions will be returned with a notation as to the deficiency.

**UNITED STATES DISTRICT COURT**  
**Southern District of Florida**

Case Number: \_\_\_\_\_

UNITED STATES OF AMERICA

v.

\_\_\_\_\_  
Name of Movant (name under which convicted)

\_\_\_\_\_  
Prisoner No.

\_\_\_\_\_  
Place of Confinement

**MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT  
SENTENCE BY A PERSON IN FEDERAL CUSTODY**

1. Name and location of court which entered the judgment of conviction under attack \_\_\_\_\_  
\_\_\_\_\_
2. Date of judgment of conviction \_\_\_\_\_
3. Length of sentence \_\_\_\_\_
4. Nature of offense involved (all counts) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
5. What was your plea? (Check one)  
(a) Not guilty                    G  
(b) Guilty                        G  
(c) Nolo contendere            G

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. If you pleaded not guilty, what kind of trial did you have? (Check one)
- (a) Jury  G
- (b) Judge only  G
7. Did you testify at the trial?
- Yes  G                      No  G
8. Did you appeal from the judgment of conviction?
- Yes  G                      No  G
9. If you did appeal, answer the following:
- (a) Name of court \_\_\_\_\_
- (b) Result \_\_\_\_\_
- (c) Date of result \_\_\_\_\_
10. 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 judgment in any federal court?
- Yes  G                      No  G
11. If your answer to 10 was "yes", give the following information:
- (a) 1. Name of court \_\_\_\_\_
2. Nature of proceeding \_\_\_\_\_
- \_\_\_\_\_
3. Grounds raised \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
4. Did you receive an evidentiary hearing on your petition, application or motion?
- Yes  G                      No  G
5. Result \_\_\_\_\_
6. Date of result \_\_\_\_\_
- (b) As to any second petition, application or motion give the same information:
1. Name of court \_\_\_\_\_
2. Nature of proceeding \_\_\_\_\_
- \_\_\_\_\_
3. Grounds raised \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_



- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one: \_\_\_\_\_

Supporting FACTS (state *briefly* without citing cases or law) \_\_\_\_\_

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B. Ground two: \_\_\_\_\_

Supporting FACTS (state *briefly* without citing cases or law) \_\_\_\_\_

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C. Ground three: \_\_\_\_\_

Supporting FACTS (state *briefly* without citing cases or law) \_\_\_\_\_

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D. Ground four: \_\_\_\_\_

Supporting FACTS (state briefly without citing cases or law) \_\_\_\_\_

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13. If any of the grounds listed in 12A, B, C, and D were not previously presented, state *briefly* what ground were not so presented, and give your reasons for not presenting them:

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14. Do you have any petition or appeal now pending in any court, as to the judgment under attack?  
Yes Q No Q

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

(a) At preliminary hearing \_\_\_\_\_

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(b) At arraignment and plea \_\_\_\_\_

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(c) At trial \_\_\_\_\_

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(d) At sentencing \_\_\_\_\_

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(e) On appeal \_\_\_\_\_

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(f) In any post - conviction proceeding \_\_\_\_\_

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(g) On appeal from any adverse ruling in a post - conviction proceeding \_\_\_\_\_

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16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at approximately the same time?

Yes G No G

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes G No G

(a) If so, give name and location of court which imposed sentence to be served in the future: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

(b) Give date and length of the above sentence: \_\_\_\_\_

\_\_\_\_\_

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes G No G

Wherefore, movant prays that the Court grant him all relief to which he may be entitled in this proceeding.

\_\_\_\_\_  
Signature of Attorney (if any)

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

\_\_\_\_\_  
(date)

\_\_\_\_\_  
Signature of Movant