

**UNITED STATES COURT OF APPEALS
ELEVENTH CIRCUIT**

APPLICATION FOR LEAVE TO FILE A SECOND OR
SUCCESSIVE HABEAS CORPUS PETITION
28 U.S.C. § 2244(b)
BY A PRISONER IN STATE CUSTODY

Name _____ Prisoner Number _____

Institution _____

Street Address _____

City _____ State _____ Zip Code _____

INSTRUCTIONS--READ CAREFULLY

- (1) This application must be legibly handwritten or typewritten and signed by the applicant under penalty of perjury. Any false statement of a material fact may serve as the basis for prosecution and conviction for perjury.
- (2) All questions must be answered concisely in the proper space on the form.
- (3) The Judicial Conference of the United States has adopted the 8½ x 11 inch paper size for use throughout the federal judiciary and directed the elimination of the use of legal size paper. All pleadings must be on 8½ x 11 inch paper, otherwise we cannot accept them.
- (4) All applicants seeking leave to file a second or successive petition are required to use this form, except in capital cases. In capital cases only, the use of this form is optional.
- (5) Additional pages are not permitted except with respect to additional grounds for relief and facts which you rely upon to support those grounds. **DO NOT SUBMIT SEPARATE PETITIONS, MOTIONS, BRIEFS, ARGUMENTS, ETC., EXCEPT IN CAPITAL CASES.**

(6) In accordance with the "Antiterrorism and Effective Death Penalty Act of 1996," as codified at 28 U.S.C. § 2244(b), effective April 24, 1996, before leave to file a second or successive petition can be granted by the United States Court of Appeals, it is the applicant's burden to make a prima facie showing that he satisfies either of the two conditions stated below and in 28 U.S.C. § 2244(b).

(b)(1) a claim presented in a second or successive habeas corpus application under [28 U.S.C.] section 2254 that was presented in a prior application shall be dismissed.

(2) a claim presented in a second or successive habeas corpus application under [28 U.S.C.] section 2254 that was not presented in a prior application shall be dismissed unless—

(A) the applicant shows that the claim relies on a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

(B)(i) the factual predicate for the claim could not have been discovered previously through the exercise of due diligence; and

(ii) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

(7) When this application is fully completed, the original and three copies must be mailed to:

**Clerk of Court
United States Court of Appeals for the Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, Georgia 30303**

APPLICATION

1. (a) Name and location of court which entered the judgment of conviction under attack _____
(b) Case number _____
2. Date of judgment of conviction _____
3. Length of sentence _____ Sentencing Judge _____
4. Nature of offense or offenses for which you were convicted: _____

5. Have you ever filed a post-conviction petition, application, or motion for collateral relief in any federal court related to this conviction and sentence?
Yes () No () If "yes", how many times? _____ (if more than one, complete 6 and 7 below as necessary)
 - (a) Name of court _____
 - (b) Case number _____
 - (c) Nature of proceeding _____

 - (d) Grounds raised (list all grounds; use extra pages if necessary) _____

 - (e) Did you receive an evidentiary hearing on your petition, application, or motion?
Yes () No ()
 - (f) Result _____

 - (g) Date of result _____
6. As to any second federal petition, application, or motion, give the same information:
 - (a) Name of court _____
 - (b) Case number _____

(c) Nature of proceeding _____

(d) Grounds raised (list all grounds; use extra pages if necessary) _____

(e) Did you receive an evidentiary hearing on your petition, application, or motion?

Yes () No ()

(f) Result _____

(g) Date of result _____

7. As to any third federal petition, application, or motion, give the same information:

(a) Name of court _____

(b) Case number _____

(c) Nature of proceeding _____

(d) Grounds raised (list all grounds; use extra pages if necessary) _____

(e) Did you receive an evidentiary hearing on your petition, application, or motion?

Yes () No ()

(f) Result _____

(g) Date of result _____

8. Did you appeal the result of any action taken on your federal petition, application, or motion?
(Use extra pages to reflect additional petitions if necessary)

(1) First petition, etc. No () Yes () Appeal No. _____

(2) Second petition etc. No () Yes () Appeal No. _____

(3) Third petition, etc. No () Yes () Appeal No. _____

9. If you did not appeal from the adverse action on any petition, application, or motion, explain briefly why you did not: _____

10. State concisely every ground on which you now claim that you are being held unlawfully. Summarize briefly the facts supporting each ground.

A. Ground one: _____

Supporting FACTS (tell your story briefly without citing cases or law):

Was this claim raised in a prior federal petition, application, or motion?

Yes () No ()

Does this claim rely on a "new rule of law?" Yes () No ()

If "yes," state the new rule of law (give case name and citation):

Does this claim rely on "newly discovered evidence?" Yes () No ()

If "yes," briefly state the newly discovered evidence, and why it was not previously available to you _____

B. Ground two: _____

Supporting FACTS (tell your story briefly without citing cases or law):

Was this claim raised in a prior federal petition, application, or motion?

Yes () No ()

Does this claim rely on a "new rule of law?" Yes () No ()

If "yes," state the new rule of law (give case name and citation):

Does this claim rely on "newly discovered evidence?" Yes () No ()

If "yes," briefly state the newly discovered evidence, and why it was not previously available to you

[Additional grounds may be asserted on extra pages if necessary]

11. Do you have any motion or appeal now pending in any court as to the judgment now under attack? Yes () No ()
If yes, name of court _____ Case number _____

Wherefore, applicant prays that the United States Court of Appeals for the Eleventh Circuit grant an Order Authorizing the District Court to Consider Applicant's Second or Successive Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2254.

Applicant's Signature

I declare under Penalty of Perjury that my answers to all the questions in this Application are true and correct.

Executed on _____
[date]

Applicant's Signature

PROOF OF SERVICE

Applicant must send a copy of this application and all attachments to the attorney general of the state in which applicant was convicted.

I certify that on _____, I mailed a copy of this Application * and all
[date]
attachments to _____

at the following address:

Applicant's Signature

* Pursuant to Fed.R.App.P. 25(a)(2)(C), "If an institution has a system designed for legal mail, an inmate confined there must use that system to receive the benefit of this Rule 25(a)(2)(C). A paper filed by an inmate is timely if it is deposited in the institution's internal mail system on or before the last day for filing and:

(i) it is accompanied by:

- a declaration in compliance with 28 U.S.C. § 1746--or a notarized statement--setting out the date of deposit and stating that first-class postage is being prepaid; or
- evidence (such as a postmark or date stamp) showing that the paper was so deposited and that postage was prepaid; or

(ii) the court of appeals exercises its discretion to permit the later filing of a declaration or notarized statement that satisfies Rule 25(a)(2)(C)(i)."