

**PETITION FOR POST-CONVICTION RELIEF  
(Rule 40, HRPP)**

Name: \_\_\_\_\_  
Prison Number \_\_\_\_\_  
Place of Confinement \_\_\_\_\_  
S.P.P. No. \_\_\_\_\_ (to be supplied by the Clerk of the Court)

\_\_\_\_\_  
)  
)  
)  
)  
)  
(Full name of petitioner) )  
PETITIONER, )  
VS )  
)  
)  
)  
STATE OF HAWAII )  
RESPONDENT. )  
\_\_\_\_\_ )

**PETITION TO VACATE, SET ASIDE, OR CORRECT JUDGMENT  
OR TO RELEASE PETITIONER FOR CUSTODY**

- (1) This petition must be legible handprinted or typewritten, and signed by the petitioner under penalty of perjury. Any false statement of a material fact may serve as the basis for prosecution and conviction of perjury. All questions must be answered concisely in the proper space on the form.
- (2) Additional pages are not permitted except with the respect to the facts which you rely upon to support your grounds for relief. If briefs or arguments or citation of authorities are submitted, they should be submitted in the form of a separate memorandum.
- (3) Upon receipt, your petition will be filed if it is in proper order. No fee is required with this petition.
- (4) If you do not have the necessary funds for transcripts, counsel, appeal, and other costs connected with a petition of this type, you may request permission to proceed in forma pauperis in which event you must execute the declaration 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 and judge may be challenged in a single petition. If you seek to challenge judgment entered by different judges or divisions either in the same court or in different court, you must file separate petitions as to each such judgment.



In accordance with the Americans with Disabilities Act and other applicable state and federal laws, if you require a reasonable accommodation for a disability, please contact the ADA Coordinator at the Circuit Court Administration Office at PHONE NO. 961-7440, FAX 961-7416, or TTY 961-7525 at least ten (10) working days prior to your hearing or appointment date.

- (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 petition you file seeking relief from any judgment of conviction.
- (7) When the petition is fully completed, the original and two copies must be mailed to the Clerk of the Court in which the conviction was entered, whose address is: (to be stamped in by the Clerk)  
\_\_\_\_\_
- (8) Petitions which do not conform to these instructions will be returned with a notation as to the deficiency, and will not be processed or considered until the deficiency is cured.

**PETITION**

- 1. Name and location of court which entered the judgment of conviction under attack \_\_\_\_\_  
\_\_\_\_\_
- (a) Case No. \_\_\_\_\_
- 2. Date of judgment of conviction \_\_\_\_\_
- 3. Length of sentence \_\_\_\_\_
- 4. Nature of offense involved (all counts) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- 5. What was plea? (Check one)
  - (a) Not guilty
  - (b) Guilty
  - (c) Nolo contendere

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

- 6. Kind of trial (Check one)
  - (a) Jury
  - (b) Judge only

- 7. Did you testify at the trial?  
 Yes     No

- 8. Did you appeal from the judgment of convictions?  
 Yes     No

9. If you did appeal, answer the following:

(a) Supreme Court No. \_\_\_\_\_

(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 court?

Yes     No

11. If your answer to 10 is “yes”, give the following information:

(a) (1) Name of court \_\_\_\_\_

(2) Case No. \_\_\_\_\_

(3) Name of judge \_\_\_\_\_

(4) Nature of proceeding \_\_\_\_\_

(5) Grounds raised \_\_\_\_\_

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

Yes     No

(7) Results \_\_\_\_\_

(8) Date of result \_\_\_\_\_

(b) As to any second petition, application or motion, give the same information:

(1) Name of court \_\_\_\_\_

(2) Case No. \_\_\_\_\_

(3) Name of judge \_\_\_\_\_

(4) Nature of proceeding \_\_\_\_\_

(5) Grounds raised \_\_\_\_\_

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

Yes     No

(7) Results \_\_\_\_\_

(8) Date of result \_\_\_\_\_

- (c) As to any third petition, application or motion, give the same information:
- (1) Name of court \_\_\_\_\_
- (2) Case No. \_\_\_\_\_
- (3) Name of judge \_\_\_\_\_
- (4) Nature of proceeding \_\_\_\_\_
- \_\_\_\_\_
- (5) Grounds raised \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- (6) Did you receive an evidentiary hearing on your petition, application or motion?  
 Yes     No
- (7) Results \_\_\_\_\_
- (8) Date of result \_\_\_\_\_
- (d) Did you appeal, to the Supreme Court of Hawai‘i, the result of action taken on any petition, application or motion?
- (1) First petition, etc.     Yes     No    (Supreme Court No. \_\_\_\_\_ )
- (2) Second petition, etc.     Yes     No    (Supreme Court No. \_\_\_\_\_ )
- (3) Third petition, etc.     Yes     No    (Supreme Court No. \_\_\_\_\_ )
- (e) If you did **not** appeal from the adverse action on any petition, application or motion, explain briefly why you did not: \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

12. State **concisely** every ground on which you claim that you 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.

**CAUTION:** If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in these proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you have other than those listed. However, **you should raise in this petition all available grounds** (relating to this conviction) on which you based your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The petition will be returned to you if you merely check (a) through (j) or any one of the grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily or with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (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 (tell your story **briefly** without citing cases or laws): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

Supporting FACTS (tell your story **briefly** without citing cases or laws): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

Supporting FACTS (tell your story **briefly** without citing cases or laws): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

Supporting FACTS (tell your story **briefly** without citing cases or laws): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

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

14. Do you have any petition or appeal now pending in any court as to the judgment under attack?

Yes      If so, give court name(s) and case number(s)

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

No

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

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

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

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

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

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

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

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

\_\_\_\_\_

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

Yes       No

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

Yes       No

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

(b) And give date and length of sentence to be served in the future: \_\_\_\_\_  
\_\_\_\_\_

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

Yes       No

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

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

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_ .  
(date)

\_\_\_\_\_  
Signature of Petitioner