

IN THE DISTRICT COURT OF _____ COUNTY, KANSAS

PERSONS IN CUSTODY

Full name of Movant

Prison Number

Case No.: _____
(To be supplied by the Clerk of the District Court)

vs.

STATE OF KANSAS, *Respondent*.

INSTRUCTIONS--READ CAREFULLY

In order for this motion to receive consideration by the District Court, it shall be in writing (legibly handwritten or typewritten), signed by the petitioner under penalty of perjury, and it shall set forth in concise form the answers to each applicable question. If necessary, petitioner may finish his or her answer to a particular question on the reverse side of the page or on an additional blank page. Petitioner shall make it clear to which question any such continued answer refers.

Since every motion must be subscribed as true under penalty of perjury, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Petitioners should therefore exercise care to assure that all answers are true and correct.

If the motion is taken *in forma pauperis*, it shall include (attached at the back of the form):

1. an affidavit evidencing petitioner's inability to pay the full costs of the proceedings; and
2. a certified statement setting forth the lesser of the average account balance or total deposits in petitioner's inmate trust fund for the six-month period preceding the filing of the motion or the current period of incarceration, whichever is shorter.

The court will determine the initial fee to be assessed for filing the action, but in no event will the court require an inmate to pay less than \$3. The poverty affidavit applies only to the amount that must be paid to file the case and does not prevent the court from later assessing the remainder of the docket fee or other fees and costs against the petitioner.

When the motion is completed, *the original and one copy* shall be mailed to the Clerk of the District Court from which petitioner was sentenced.

MOTION

1. Place of detention _____
2. Name and location of court which imposed sentence _____

3. The case number and the offense or offenses for which sentence was imposed:
(a) _____
(b) _____
(c) _____
4. The date upon which sentence was imposed and the terms of the sentence:
(a) _____
(b) _____
(c) _____
5. Check whether a finding of guilty was made after a plea:
(a) of guilty _____
or (b) not guilty _____
6. If you were found guilty after a plea of not guilty, check whether that finding was made by
(a) a jury _____
or (b) a judge without a jury _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?

8. If you answered "yes" to (7), list
(a) the name of each court to which you appealed:
i. _____
ii. _____
(b) the result in each such court to which you appealed and the date of such result:
i. _____
ii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
(a) _____

(b) _____

(c) _____

10. State concisely all the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) _____

- (b) _____

- (c) _____

11. State concisely and in the same order the facts which support each of the grounds set out in (10), and the names and addresses of the witnesses or other evidence upon which you intend to rely to prove such facts:

- (a) _____

- (b) _____

- (c) _____

12. Prior to this motion have you filed with respect to this conviction:

- (a) any petitions in state or federal courts for habeas corpus? _____
- (b) any petitions in the United States Supreme Court for certiorari other than petitions, already specified in (8)? _____
- (c) any other petitions, motions or applications in this or any other court?

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application

- (a) the specific nature thereof:
 - i. _____
 - ii. _____
 - iii. _____
- (b) the name and location of the court in which each was filed:
 - i. _____
 - ii. _____
 - iii. _____
- (c) the disposition thereof and the date of such disposition:
 - i. _____
 - ii. _____
 - iii. _____

(d) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other court, *state or federal*, in any petition, motion or application which you have filed?

15. If you answered "yes" to (14), identify

(a) which grounds have been previously presented:

- i. _____
- ii. _____
- iii. _____

(b) the proceedings in which each ground was raised:

- i. _____
- ii. _____
- iii. _____

16. If any ground set forth in (10) has not previously been presented to any court, *state or federal*, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) _____

(b) _____

(c) _____

17. Were you represented by an attorney at any time during the course of

(a) your preliminary hearing? _____

(b) your arraignment and plea? _____

(c) your trial, if any? _____

(d) your sentencing? _____

(e) Your appeal, if any, from the judgment of conviction or the imposition of sentence?

(f) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?

18. If you answered "yes" to one or more parts of (17), list
- (a) the name and address of each attorney who represented you:
 - i. _____
 - ii. _____
 - iii. _____
 - (b) the proceedings at which each such attorney represented you:
 - i. _____
 - ii. _____
 - iii. _____
 - (c) was said attorney
 - i. appointed by the court? _____; or
 - ii. of your own choosing? _____

19. If your motion is based upon the trial court's refusing you counsel, attach the transcript of the proceedings which supports your allegation.

20. If your motion is based upon the failure of counsel to adequately represent you, state concisely and in detail what counsel failed to do in representing your interests:

- (a) _____
- (b) _____

21. Are you now serving a sentence from any other court that you have not challenged? _____

22. If you are seeking leave to proceed *in forma pauperis*, have you attached the completed affidavit and certified inmate account statement (see instructions, page 1 of this form)? _____

I, _____, declare under penalty of perjury that the foregoing is true and correct.

Executed on _____, 2____.

Signature of Petitioner

FORMA PAUPERIS AFFIDAVIT
(See instructions on page 1 of this form)

In the district court of _____ County, Kansas:

I do solemnly swear that the claim set forth in the petition is just, and I do further swear that, by reason of my poverty, I am unable to pay a docket fee.

I, _____, declare under penalty of perjury that the foregoing is true and correct.

Executed on _____, 2____.

Signature of Petitioner