

# FIRST UNIFORM APPLICATION FOR POSTCONVICTION RELIEF

Please review La. C.Cr.P. Arts. 924 – 930.9 for the correct procedure for filing an application for postconviction relief. This form does not modify the law or requirements as stated in those articles.

For the **Time Limitations** for filing this application, please see Louisiana Code of Criminal Procedure (La. C.Cr.P.) Art. 930.8(A), which states in part that “No application for post-conviction relief, including applications which seek an out-of-time appeal, shall be considered if it is filed more than two years after the judgment of conviction and sentence has become final under the provisions of Article 914 or 922 . . .”

See remainder of La. C.Cr.P. Art. 930.8 for the **Limited Exceptions** relating to the extension of this time period.

## WHEN NOT TO USE THIS FORM

If you are trying to file a **motion to correct an illegal sentence** pursuant to La. C.Cr.P. Art. 881.5 or 882, **you must use the Uniform Motion to Correct an Illegal Sentence**. A motion to correct an illegal sentence must point to an illegal term or condition of your sentence, otherwise it will be construed as an application for postconviction relief subject to the time limits established in La. C.Cr.P. Art. 930.8.

If your complaint involves the **computation of time** you are serving or have served, **you must first file for administrative relief** with the Department of Corrections in accordance with R.S. 15:1172. Review of any unfavorable decision must be filed in the 19th Judicial District Court in East Baton Rouge Parish.

## GENERAL INSTRUCTIONS – READ CAREFULLY

If this is your **First Application** for postconviction relief, please carefully review all of the following instructions:

1. **You must use this form or the District Court will not consider your application.** This could affect your ability to seek relief in accordance with the time limits established in La. C.Cr.P. Art. 930.8. Therefore, you must use this form or justify your failure to do so within the postconviction time limits.
2. This application must be clearly written or typed, signed by you or your attorney, and sworn to before a notary public or institutional officer authorized to administer an oath. Any false statement of a material fact may serve as the basis for a criminal prosecution. Answer questions concisely in the proper space on the form. You may attach additional pages stating the facts that support your claims for relief. No lengthy citations of authorities or legal arguments are necessary.
3. When the application is completed, **you must file the original application in the District Court for the parish in which you were convicted and sentenced**, and you must also send a copy to the State.
4. You must raise all claims for relief arising out of a single trial or guilty plea in one application.
5. You are only entitled to file an application for postconviction relief to challenge a **habitual offender adjudication or sentence within very limited circumstances**. In most cases, you can only challenge a habitual offender adjudication or sentence in an appeal.

## REQUIRED ATTACHMENT

A copy of the **Louisiana Uniform Commitment Order** of conviction and sentence **must** be attached to the application (if it is available), or the application must allege that it is unavailable.

Date of this Application:	____ / ____ / 20____	Name of Applicant:	
DOC Number:		Place of Confinement:	
District Court Case Number:		Parish of Conviction:	
Name of Trial Judge:			
Offense(s) for which you were convicted:			
Do any of the convictions involve a sex offense or a human trafficking related offense where the victim was a minor under the age of eighteen years (see La. R.S. 46:1842(1.1) and 46:1844(W)(2))? [Check One]			Yes <input type="checkbox"/> No <input type="checkbox"/>

Date of Conviction:	___ / ___ / ___	Conviction by: [Check One]	Guilty Plea <input type="checkbox"/> Trial by Jury <input type="checkbox"/> Trial by Judge <input type="checkbox"/>
Date of Sentencing:	___ / ___ / ___	Sentence:	
Name of Counsel who represented you at the time of trial, sentence and/or conviction:			

Multiple Offender Proceeding: [Check One]	Yes <input type="checkbox"/> No <input type="checkbox"/>
If yes, answer both of the following questions:	
Result of Proceeding: [Check One]	Pled <input type="checkbox"/> Adjudicated to be a Multiple Offender <input type="checkbox"/> Adjudicated No Bill <input type="checkbox"/>
Sentence on Multiple Offender Bill:	

Name of Counsel who represented you on appeal:			
Appeal of conviction and sentence: [Check One]	Yes <input type="checkbox"/> No <input type="checkbox"/>	Appellate Case #:	
Appeal of Multiple Bill: [Check One]	Yes <input type="checkbox"/> No <input type="checkbox"/>	Appellate Case #:	
Writ to Louisiana Supreme Court: [Check One]	Yes <input type="checkbox"/> No <input type="checkbox"/>	Supreme Court Case #:	
Action by Supreme Court: [Check if Applicable]	Granted <input type="checkbox"/> Denied <input type="checkbox"/>	Date of Action:	___ / ___ / ___
Rehearing to Supreme Court: [Check if Applicable]	Granted <input type="checkbox"/> Denied <input type="checkbox"/>	Date of Action:	___ / ___ / ___

### CLAIMS FOR RELIEF INSTRUCTIONS – READ CAREFULLY

**You must include** in this application **all allowable claims** relating to this conviction. If you do not, you may be **barred** from presenting additional claims at a later date. See La. C.Cr.P. Art. 930.4. You must **state the facts** upon which your claims are based. Do not just set out conclusions.

Please refer to La. C.Cr.P. Art. 930.3 (Grounds), which reads:

“If the petitioner is in custody after sentence for conviction for an offense, relief shall be granted only on the following grounds:

- (1) The conviction was obtained in violation of the constitution of the United States or the state of Louisiana;
  - (2) The court exceeded its jurisdiction;
  - (3) The conviction or sentence subjected him to double jeopardy;
  - (4) The limitations on the institution of prosecution had expired;
  - (5) The statute creating the offense for which he was convicted and sentenced is unconstitutional;
- or
- (6) The conviction or sentence constitute the ex post facto application of law in violation of the constitution of the United States or the state of Louisiana.
  - (7) The results of DNA testing performed pursuant to an application granted under Article 926.1 proves by clear and convincing evidence that the petitioner is factually innocent of the crime for which he was convicted.”

Using a separate sheet of paper, provide the following information as it relates to claims available under La. C.Cr.P. Art. 930.3.

For each claim:

(A) You **must** state your **claim**, the **ground** on which it is based under La. C.Cr.P. Art. 930.3, and the **facts** that support your claim.

(B) If there are witnesses who could testify in support of your claim, you **must** list their names and current addresses. If you cannot do so, explain why.

(C) If you failed to raise this claim in the trial court prior to conviction or on appeal, you **must** explain why. This is your opportunity to state reasons for your failure before the court considers dismissing the application in accordance with La. C.Cr.P. Art. 930.4(F).

Wherefore, Applicant prays that the Court grant Applicant relief to which he/she may be entitled.

\_\_\_\_ / \_\_\_\_ / 20\_\_\_\_  
[Day / Month / Year]

\_\_\_\_\_  
[Signature of Applicant or Applicant's attorney]

**AFFIDAVIT**

**STATE OF LOUISIANA**

**PARISH OF** \_\_\_\_\_

\_\_\_\_\_ [Name of Applicant/Attorney], being first duly sworn says that he/she has read the application for postconviction relief and swears or affirms that all of the information therein is true and correct.

\_\_\_\_\_  
[Signature of Applicant or Applicant's attorney]

SWORN TO AND SUBSCRIBED before me this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
NOTARY or person authorized to administer oath

Case Name:

**JUDGMENT**  
[May be used by the Court in lieu of or in addition to written reasons]

Case Number:

Considering the foregoing Application for Postconviction Relief, this Honorable Court hereby:

DENIES this application in accordance with La. C.Cr.P. Art.

926(E)  928  929  930.4  or 930.8  , or

ORDERS that the Applicant show cause in writing on or before the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ why the application should not be dismissed in accordance with La. C.Cr.P. Art.

926(E)  928  929  930.4  or 930.8  , or

ORDERS that the State be required to file a response to this application on or before the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signed in \_\_\_\_\_, Louisiana, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
JUDGE