

APPENDIX "A" -- UNIFORM APPLICATION FOR POST-CONVICTION RELIEF

UNIFORM APPLICATION FOR POST-CONVICTION RELIEF

NAME OF PETITIONER

No. _____
(to be filled in by the clerk)

PRISON NUMBER

_____ JUDICIAL DISTRICT

PARISH OF _____

PLACE OF CONFINEMENT STATE OF LOUISIANA

vs.

CUSTODIAN (Warden, Superintendent, Jailor,
or authorized person having custody of
petitioner)

Please Serve CUSTODIAN and _____, DISTRICT ATTORNEY, _____ JUDICIAL DISTRICT, STATE OF
LOUISIANA.

INSTRUCTIONS--READ CAREFULLY

(1) This petition must be legibly written or typed, signed by the petitioner 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. All questions must be answered concisely in the proper space on the form. Additional pages are not permitted except with respect to the facts which you rely upon to support your claims for relief. No citation of authorities or legal arguments are necessary.

(2) Only one judgment may be challenged in a single petition except that convictions on multiple counts of a single indictment or information may be challenged in one petition.

(3) YOU MUST INCLUDE ALL CLAIMS FOR RELIEF AND ALL FACTS SUPPORTING SUCH CLAIMS IN THE PETITION.

(4) When the petition is completed, the original must be mailed to the clerk of the district court in the parish where you were convicted and sentenced.

(5) You must attach official documentation showing your sentence and the crime for which you have been convicted. You may obtain that documentation from the clerk of court of the district court of the parish where you were sentenced or from the institution where you are confined. If that documentation is not attached, you must allege what steps were taken to obtain it.

(6) Petitions which do not conform to these instructions will be returned with a notation as to the deficiency.

PETITION

1. Name and location of court which entered the judgment of conviction challenged

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 ()

(b) Guilty ()

(c) Not guilty and not guilty by reason of insanity ()

If you entered a guilty plea to one or more counts and not guilty to other counts, give details

(d) Name and address of the lawyer representing you at your plea (if you had no lawyer, please indicate)

(e) Was the lawyer appointed () or hired ()? (check one)

6. Kind of trial: (check one)

(a) Jury ()

(b) Judge only ()

7. (a) Name and address of the lawyer representing you at your trial:

(b) Was the lawyer appointed () or hired ()? (check one)

8. Did you testify at the trial? Yes () No ()

9. (a) Give the name and address of the lawyer who represented you at sentencing for the conviction being attacked herein. _____

(b) Was the lawyer appointed () or hired ()? (check one)

10. Did you appeal from the judgment of conviction? Yes () No ()

11. If you did appeal, give the following information:

(a) Citation, docket number, and date of written opinion by the Supreme Court (if known)

(b) Name and address of lawyer representing you on appeal:

(c) Was the lawyer appointed () or hired ()? (check one)

12. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any application for post-conviction relief with respect to this judgment in any state or federal court? Yes () No ()

13. If your answer to 12 is "yes", give the following information:

(a)(1) Name of court _____

(2) Nature of proceeding _____

(3) Claims raised _____

(4) Did you receive an evidentiary hearing on your application? Yes () No ()

(5) Was relief granted or denied? _____

(6) Date of disposition _____

(7) Citation of opinion (if known) _____

(8) Name and address of lawyer representing you [if none, so state]:

(9) Was the lawyer appointed () or hired ()? (check one)

(b) As to any second application give the same information:

(1) Name of court _____

(2) Nature of proceeding _____

(3) Claims raised _____

(4) Did you receive an evidentiary hearing on your application?

Yes () No ()

(5) Was relief granted or denied? _____

(6) Date of disposition _____

(7) Citation of opinion (if known) _____

(8) Name and address of lawyer representing you [if none, so state]:

(9) Was the lawyer appointed () or hired ()? (check one)

(c) Have you filed any other applications for post-conviction relief with respect to the challenged conviction? Yes () No ()

If "yes", set forth the details (as above) on separate paper and attach.

(d) Did you appeal or seek writs of review from the denial of any post-conviction application?

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

(2) Second petition, etc. Yes () No ()

(e) If you did not appeal or seek writs from the denial of any post-conviction application, explain briefly why you did not:

(f) Name of the lawyer who represented you on appeal from the denial of any post-conviction application

[if none, so state]:

(1) First petition _____

(2) Second petition _____

CLAIMS FOR RELIEF

State concisely facts supporting your claim that you are being held unlawfully. If necessary, you may attach extra pages stating additional claims and supporting facts. Do not argue points of law.

The following is a list of those claims, and only those claims, that may provide you with grounds for relief:

(1) Your conviction was obtained in violation of the constitution of the United States or the State of Louisiana;

(2) The court exceeded its jurisdiction;

(3) Your conviction or sentence subjected you to double jeopardy;

(4) The limitations on prosecution had expired;

(5) The statute creating the offense for which you were convicted and sentenced is unconstitutional;

(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.

A REMINDER: THE ABOVE LIST CONTAINS ONLY THOSE CLAIMS THAT YOU MAY RAISE FOR RELIEF. YOU MUST SET FORTH ALL OF YOUR COMPLAINTS ABOUT YOUR CONVICTION IN THIS APPLICATION. YOU MAY BE BARRED FROM PRESENTING ADDITIONAL CLAIMS AT A LATER DATE. Remember that you must state the FACTS upon which your complaints about your conviction are based. MERE CONCLUSORY ALLEGATIONS WILL NOT SUFFICE.

REPETITIVE APPLICATIONS

The above claims may not provide grounds for relief if any of the following applies to you:

(1) Unless required in the interest of justice, any claim for relief which you fully litigated in an appeal shall not be considered.

(2) Any claim of which you had knowledge and inexcusably failed to raise in the proceeding leading to conviction may be denied by the court.

(3) Any claim which you raised in the trial court and inexcusably failed to pursue on appeal may be denied by the court.

(4) A successive application may be dismissed if it fails to raise a new or different claim.

(5) A successive application may be dismissed if it raises a new or different claim that was inexcusably

omitted from a prior application.

This application will provide space for you to explain the reasons why you failed to raise your claims in the proceedings leading to conviction, or failed to urge the claim on appeal, or failed to include the claim in a prior application.

CLAIM I

Claim:

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

(b) List names and addresses of witnesses who could testify in support of your claim. If you cannot do so, explain why:

(c) If you failed to raise this ground in the trial court prior to conviction, on appeal or in a prior application, explain why: _____

CLAIM II

Claim:

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

(b) List names and addresses of witnesses who could testify in support of your claim. If you cannot do so, explain why:

(c) If you failed to raise this ground in the trial court prior to conviction, on appeal or in a prior application, explain why: _____

CLAIM III

Claim:

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

(b) List names and addresses of witnesses who could testify in support of your claim. If you cannot do so, explain why:

(c) If you failed to raise this ground in the trial court prior to conviction, on appeal or in a prior application, explain why: _____

You may attach additional pages setting forth the required information (above) if additional claims are asserted.

A. Do you have in a state or federal court any petition or appeal now pending as to the judgment challenged?

Yes [] No [] If "yes", name the court

B. Do you have any future sentence to serve after you complete the sentence imposed by the judgment

challenged? Yes [] No []

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

(2) Give date and length of sentence to be served in the future:

(3) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future? Yes [] No []

C. If a copy of the court order sentencing you to custody is not attached, explain why.

WHEREFORE, petitioner prays that the Court grant petitioner relief to which he may be entitled.

Signature of Petitioner

Day/Month/Year

APPLICATION FOR APPOINTMENT OF COUNSEL

I am unable to employ counsel to represent me in this matter because I have no assets or funds except:

(Write "None" above if you have nothing; otherwise, list your assets including funds in prison accounts.)

Signature of Petitioner

AFFIDAVIT

STATE OF LOUISIANA

PARISH OF _____

_____, being first duly sworn says that he has read the
(Name of Petitioner)

foregoing application for post-conviction relief and swears or affirms that all of the information therein is true and correct. He further swears or affirms that he is unable to employ counsel because he has no assets or funds which could be used to hire an attorney except as listed above. [Delete reference to appointment of counsel if inapplicable.]

Signature of Petitioner

SWORN TO AND SUBSCRIBED before me this _____ day of _____, 19__.

Notary Public or other person authorized to administer an oath.

