

SECOND OR SUBSEQUENT 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.

SECOND OR SUBSEQUENT APPLICATION INSTRUCTIONS – READ CAREFULLY

If this is **not** your **First Application** for postconviction relief, please carefully review all of the following instructions:

1. In accordance with La. C.Cr.P. Art. 930.4(D) or (E), you are entitled to file one application for postconviction relief after your conviction has become final and within the time limits provided in La. C.Cr.P. Art. 930.8.
2. If you are attempting to file a second or subsequent application, you **must use this form** and **justify your right to file a second or subsequent application** in accordance with La. C.Cr.P. Arts. 930.4 and 930.8. If you fail to use this form, your application may be automatically dismissed by the Court.

GENERAL INSTRUCTIONS – READ CAREFULLY

In addition to the above instructions, 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 ATTACHMENTS

A copy of the **Louisiana Uniform Commitment Order** of conviction and sentence **must** be attached to the application, or the application must allege that a copy has been properly demanded and refused.

You **must** attach a copy of **any judgment** by **any court** regarding prior postconviction applications, or this application may be dismissed by the district court. If you are unable to provide any judgments, please explain why.

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:	____ / ____ / ____

PRIOR APPLICATIONS INSTRUCTIONS – READ CAREFULLY

Please provide a list below of all prior applications for postconviction relief filed by you or on your behalf in connection with the judgment of conviction and sentence challenged in this application. If you have filed more than two prior applications, provide the information for each additional application on a separate sheet of paper.

District Court Case Number:		Parish of Conviction:	
Date of Filing:	___ / ___ / ____	Is this the same case challenged in this application? [Check One]	Yes <input type="checkbox"/> No <input type="checkbox"/>
Claims Raised:	1. 2. 3. 4. [Use Additional Sheet if Necessary]		
Was relief granted? [Check One]		Yes <input type="checkbox"/> No <input type="checkbox"/>	Date of Disposition: ___ / ___ / ____
Did you receive an evidentiary hearing? [Check One]	Yes <input type="checkbox"/> No <input type="checkbox"/>	Did you file a writ to the Court of Appeal? [Check One]	Yes <input type="checkbox"/> No <input type="checkbox"/>
Which Circuit?[Check One]	1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>	Appellate Case #:	
Sought writ to Louisiana Supreme Court? [Check One]	Granted <input type="checkbox"/> Denied <input type="checkbox"/> Not Sought <input type="checkbox"/>	Supreme Court Case #:	
		Date of Ruling	___ / ___ / ____

District Court Case Number:		Parish of Conviction:	
Date of Filing:	___ / ___ / ____	Is this the same case challenged in this application? [Check One]	Yes <input type="checkbox"/> No <input type="checkbox"/>
Claims Raised:	1. 2. 3. 4. [Use Additional Sheet if Necessary]		
Was relief granted? [Check One]		Yes <input type="checkbox"/> No <input type="checkbox"/>	Date of Disposition: ___ / ___ / ____
Did you receive an evidentiary hearing? [Check One]	Yes <input type="checkbox"/> No <input type="checkbox"/>	Did you file a writ to the Court of Appeal? [Check One]	Yes <input type="checkbox"/> No <input type="checkbox"/>
Which Circuit?[Check One]	1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>	Appellate Case #:	
Sought writ to Louisiana Supreme Court? [Check One]	Granted <input type="checkbox"/> Denied <input type="checkbox"/> Not Sought <input type="checkbox"/>	Supreme Court Case #:	
		Date of Ruling	___ / ___ / ____

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;
- (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; or
- (8) The petitioner is determined by clear and convincing evidence to be factually innocent under Article 926.2.”

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).

If you are raising a claim under La. C.Cr.P. art. 930.3(8), please refer to La. C.Cr.P. art. 926.2(B), which reads (emphasis is solely to aid readability of statute):

(1)(a) To assert a claim of factual innocence under this Article, a petitioner **shall** present new, reliable, and noncumulative evidence that would be legally admissible at trial and that was not known or discoverable at or prior to trial **and** that is either:

(i) **Scientific, forensic, physical, or nontestimonial documentary evidence.**

(ii) **Testimonial evidence that is corroborated** by evidence of the type described in Item (i) of this Subsubparagraph.

(b) To prove entitlement to relief under this Article, the petitioner shall present evidence that satisfies all of the criteria in Subsubparagraph (a) of this Subparagraph and that, when viewed in light of all of the relevant evidence, including the evidence that was admitted at trial and any evidence that may be introduced by the state in any response that it files or at any evidentiary hearing, **proves by clear and convincing evidence that, had the new evidence been presented at trial, no rational juror would have found the petitioner guilty beyond a reasonable doubt** of either the offense of conviction or of any felony offense that was a responsive verdict to the offense of conviction at the time of the conviction.

(2) A **recantation** of prior sworn testimony **may be considered if corroborated** by the evidence required by Subsubparagraph (1)(a) of this Paragraph. However, a recantation of prior sworn testimony cannot form the sole basis for relief pursuant to this Article.

(continued on next page)

(3) If the petitioner **pled guilty or nolo contendere** to the offense of conviction, *in addition to satisfying all of the criteria in this Paragraph* and in any other applicable provision of law, the petitioner ***shall show both*** of the following to prove entitlement to relief:

- (a) That, by reliable evidence, he **consistently maintained his innocence** until his plea of guilty or nolo contendere.
- (b) That he **could not have known of or discovered his evidence** of factual innocence prior to pleading guilty or nolo contendere.

In the following space, provide a brief summary of the reasons why you are legally entitled to file a second or subsequent application. If you fail to justify your right to file a second or subsequent application in accordance with La. C.Cr.P. Arts. 930.4 and 930.8, your application may be automatically dismissed.

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) <input type="checkbox"/> 928 <input type="checkbox"/> 929 <input type="checkbox"/> 930.4 <input type="checkbox"/> or 930.8 <input type="checkbox"/> , 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) <input type="checkbox"/> 928 <input type="checkbox"/> 929 <input type="checkbox"/> 930.4 <input type="checkbox"/> or 930.8 <input type="checkbox"/> , 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		