

**13.02 | HABEAS CORPUS PETITIONS****PETITION UNDER 28 U.S.C. §2254 FOR WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY**

NOTE: If you are attacking a judgment which imposed a sentence to be served in the future, you must fill in the name of the state where the judgment was entered. If you have a sentence to be served in the future under a federal judgment which you wish to attack, you should file a motion under 28 U.S.C. §2255 in the federal court which entered the judgment.

Check the Western District's web site at [www.nywd.uscourts.gov](http://www.nywd.uscourts.gov) for copies of many of the Court's forms and other useful information.

**INSTRUCTIONS - READ CAREFULLY**

(1) This petition must be legibly handwritten or typewritten, and signed under penalty of perjury. Any false statement of a material fact may serve as the basis for prosecution and conviction for perjury. All questions must be answered concisely in the proper space on the form.

(2) Additional pages are not permitted except with respect to the facts which you rely upon to support your grounds for relief. No citation of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.

(3) Upon receipt of a fee of \$5.00, your petition will be filed if it is in proper order.

(4) If you do not have the necessary funds for transcripts, counsel, appeal, and other costs connected with a motion of this type, you may request permission to proceed in forma pauperis, in which event you must execute the Court's form motion to proceed in forma pauperis, setting forth information 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 may be challenged in a single motion. If you seek to challenge judgments entered by different courts either in the same state or in different states, you must file separate petitions as to each court.



(6) You must include all grounds for relief and all facts supporting such grounds for relief in the petition you file. You may not be permitted the opportunity to raise any claim in a second or successive habeas corpus application that was not presented in the original habeas corpus application. 28 U.S.C. §2254(e).

(7) A one-year statute of limitations applies to an application for a writ of habeas corpus; the limitations period runs from the latest of several different points in time, so you must check the statute to see which date applies to your petition. 28 U.S.C. §2244(d)(1).

(8) When the petition is fully completed, the original and at least two copies must be mailed to the Clerk of the United States District Court at one of the following addresses:

|                                  |                           |
|----------------------------------|---------------------------|
| 200 U.S. Courthouse              | 2120 U.S. Courthouse      |
| 2 Niagara Square                 | 100 State Street          |
| Buffalo, New York 14202          | Rochester, New York 14614 |
| (716) 551-1500 or (716) 551-1700 | (585) 613-4000            |

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

*(US District Court, New York, Western District // Buffalo, NY 14202  
Pro Se Litigation Guidelines)*

