A PRISONER'S INFORMATION AND INSTRUCTIONS FOR FILING A PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF HABEAS CORPUS IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MISSOURI

I. INFORMATION

JURISDICTION

The United States District Courts have the power to grant writs of habeas corpus under 28 U.S.C. § 2241. Furthermore, 28 U.S.C. § 2254 grants District Courts the authority to entertain applications for writs of habeas corpus on behalf of persons in custody pursuant to a state court judgment on the ground that he or she is in custody in violation of the Constitution or law or treaties of the United States. For this Court to have jurisdiction over your petition, either you or one of your custodians (e.g., the state court that convicted you) must be in this district.

EXHAUSTION OF REMEDIES

Before filing a petition challenging a state conviction, you must exhaust available state remedies. You have not exhausted your state remedies if you have the right under Missouri law to raise, by any available procedure, your grounds for relief in state court. Failure to exhaust available state remedies may result in dismissal of your petition.

VENUE

The word "venue" refers to the geographic area over which a court has authority. The federal district courts each have their own venue and they have very strict rules on where you may file your petition. If you do not comply with these rules, your action may be transferred to another court or dismissed. You should file your petition in the judicial district where the state court which convicted you is located (e.g. if you were convicted in the Circuit Court for St. Louis County then you would file your petition in this judicial district) which may not be the district where you are currently incarcerated.

The State of Missouri is divided into the Eastern and Western Districts. The U.S. District Court for the Eastern District of Missouri is located at 111 S. Tenth Street, St. Louis, Missouri, 63102, and is comprised of the following counties: Adair, Audrain, Bolinger, Butler, Cape Girardeau, Carter, Chariton, Clark, Crawford, Dent, Dunklin, Franklin, Gasconade, Iron, Jefferson, Knox, Lincoln, Linn, Macon, Madison, Maries, Marion, Mississippi, Monroe, Montgomery, New Madrid, Pemiscot, Perry, Phelps, Pike, Ralls, Randolph, Reynolds, Ripley, Saint Charles, Saint Francois, Saint Genevieve, Saint Louis, Schuyler, Scotland, Scott, Shannon, Shelby, Stoddard, Warren, Washington, and Wayne, and the City of Saint Louis. The U.S. District Court for the Western District of Missouri is located at 400 East 9th Street, Kansas City, Missouri, 64106. The counties comprising the Western District of Missouri are set forth in 28 U.S.C. § 105(b).

SECOND OR SUCCESSIVE HABEAS PETITION

If you have previously brought an application for a writ of habeas corpus challenging the same conviction that you now seek to challenge in this court and the federal court previously dismissed the petition on its merits, you must first seek leave from the United States Court of Appeals for the Eighth Circuit for an order authorizing this Court to consider your application.

RULES OF COURT

If you file a § 2254 petition in the Eastern District of Missouri, you must follow the Federal Rules of Civil Procedure, and the Rules Governing Section 2254 Cases, as well as the Court's Local Rules. Even if you proceed pro se (representing yourself without an attorney), you must follow these rules. You should find both the federal rules and the local rules in the prison library. If your library does not have a copy of this Court's Local Rules, you should request that the prison library contact the Clerk's Office and the rules will be provided to the library.

CHANGE OF ADDRESS

To ensure prompt delivery of court documents, you must file a change of address with the court every time your address changes. Failure to do so will prevent the Court from notifying you of developments in your case. If any mail is returned to the Court without a forwarding address and you do not notify the Court of the change of address within thirty (30) days, the Court may, without further notice, dismiss the action without prejudice.

LEGAL ADVICE

Court personnel, including district court judges, magistrate judges, the Clerk of Court, and all staff, are prohibited by law from giving you legal advice. You should seek legal advice from your attorney or a legal clinic.

NOTARIZATION

Documents certified as true under penalty of perjury do not need to be notarized. See 28 U.S.C. § 1746.

II. INSTRUCTIONS

COMPLETING THE ENCLOSED FORM PETITION

To file a § 2254 petition, complete the enclosed form petition and mail the **original** to the Clerk of Court.

PLEASE NOTE: Due to the fact that the Court is now on an electronic filing system, IT IS NO LONGER NECESSARY TO SEND AN ORIGINAL AND 2 COPIES. Just send ONE original. If you send the copies, they will simply be recycled. We send you two copies of the form in case (1) you make a mistake, or (2) you want a copy to keep for yourself.

The petition must:

(1) By typed or legibly written
(2) Be signed by the petitioner under penalty of perjury;
(3) Challenge only the judgment of one state court;
(4) Include all grounds for relief and all facts supporting such grounds for relief; and
(5) Conform to the instructions in the "Filing Fee and Proceeding In Forma Pauperis" section below.

You should answer all questions concisely and to the best of your ability. Additional pages are not permitted except with respect to the facts which you rely upon to support your grounds for relief. If you do submit additional pages, please use 8-1/2 x 11 inch sized paper, if possible. Do not use the back of the page unless you cannot obtain black paper.

FILING FEE AND PROCEEDING IN FORMA PAUPERIS

The fee for filing a § 2254 petition in a United States District Court is $5. A check or money order should be made payable to "Clerk, United States District Court." If you are currently unable to pay the filing fee, you may request the court to file your action without prepayment of costs. (One whose petition is filed without the payment of the filing fee is said to proceed in forma pauperis.) To request leave to proceed in forma pauperis, you must complete the enclosed Motion to Proceed In Forma Pauperis and Affidavit in Support – Habeas Cases.

APPOINTMENT OF COUNSEL

A § 2254 petitioner does not have an absolute right to a court-appointed attorney. The court may, in its discretion, appoint an attorney to represent you. Form motions for appointment of counsel are available for the Clerk's Office upon request.

SUBSEQUENT FILINGS

Certificate of Service

To file a motion, pleading or other paper, you must submit the original document to the Court Clerk. The original document must include a certificate of service which should be in the following form:

Certificate of Service

I hereby certify that a copy of the foregoing was mailed
to _____ at _____
[Opposing Party or Counsel] [Address]
on _____, 20__. _____
[Date] [Your Signature]

Any pleading or document received by the court that fails to include a certificate of service may be returned. In addition to filing the original document with the court, you must mail a copy of each document to all other parties, or if they have counsel, to their attorney(s).

Motions Filed By Other Parties

If you do not timely respond to a motion filed by another party, you may waive your right to challenge the subject matter of the motion. Applicable time periods are set forth in the Federal Rules of Civil Procedure, the Rules Governing Section 2254 Cases, and the Court's Local Rules.

Letters to the Court

It is improper to send letters directly to district or magistrate judges regarding cases pending before them. All correspondence should be forwarded to the Clerk of Court. Copies of correspondence should also be sent to all other parties, or if they have counsel, to their attorney(s).

MAILING

All correspondence, fees, legal documents, etc. should be mailed to the following address:

Clerk of Court
United States District Court
Eastern District of Missouri
111 S. Tenth Street, Suite 3.300
St. Louis, MO 63102