

**In the United States District Court
for the District of Montana**

_____ **Division**

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

vs.

_____ ,

Defendant/Movant.

Cause No. CR _____

MOTION TO VACATE, SET ASIDE,
OR CORRECT THE SENTENCE
(28 U.S.C. § 2255)

Instructions – Read Carefully

1. Use this form to challenge a conviction or sentence entered in the United States District Court for the District of Montana. There is no filing fee. You need not apply to proceed in forma pauperis to file this motion.
2. Your motion must be legibly handwritten or typed. You must tell the truth and sign the form. If you falsely state a material fact, you may be prosecuted for perjury and/or your motion may be dismissed. *Please answer all the questions.* You do not necessarily have to answer “yes” to all questions in order to proceed.
3. Use additional pages if necessary to state additional claims for relief and/or facts you rely on to support relief. You do not need to submit a brief or authorities. If you prepare a brief, it should not add claims for relief; all claims should be found in the motion.
4. If you challenge more than one judgment, please file a separate motion as to each.
5. The Court may determine your claims based solely on what is in this motion. You must include in the motion all claims for relief you want the Court to review and the important facts supporting your claims. If you do not present all claims in this motion, you may be barred from presenting additional claims later. *See* 28 U.S.C. §§ 2244(a), (b), 2255(f), (h).

Name _____

6. When you complete your motion, mail the *original* (no copies required) to the United States District Court Clerk in the Division where you were convicted:

Billings Division: Clerk of U.S. District Court, 2601 2nd Ave. North, Suite 1200, Billings, MT 59101.

Butte Division: Clerk of U.S. District Court, Mike Mansfield Courthouse, 400 N. Main, Butte, MT 59701.

Great Falls Division: Clerk of U.S. District Court, Missouri River Courthouse, 125 Central Ave. West, Great Falls, MT 59404.

Helena Division: Clerk of U.S. District Court, Paul G. Hatfield Courthouse, 901 Front St., Ste. 2100, Helena, MT 59626.

Missoula Division: Clerk of U.S. District Court, Russell Smith Courthouse, 201 East Broadway, P.O. Box 8537, Missoula, MT 59807.

**MOTION TO VACATE, SET ASIDE, OR CORRECT THE SENTENCE
28 U.S.C. § 2255**

1. What were you convicted of?

2. Did you appeal?

Yes
No

3. Have you filed in this or another federal court a petition for writ of habeas corpus relating to the sentence you challenge in this motion?

Yes
No

(a) If Yes, date filed:

(b) Name of court where petition was filed and case number:

4. Have you filed with the Federal Bureau of Prisons any request or grievance regarding execution of the sentence you challenge in this motion?

Yes

No

(a) If Yes, nature of your request or grievance:

(b) Claims raised:

(c) Result:

5. State each ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States (*e.g.*, Claim One: Confrontation Clause violation). Then briefly summarize the facts supporting each claim and answer the questions following:

A. Claim One:

(i) Supporting Facts:

(ii) Did you raise this claim for relief on direct appeal?

Yes

No

If Yes, why shouldn't this Court follow the Court of Appeals' decision?

B. Claim Two:

(i) Supporting Facts:

(ii) Did you raise this claim for relief in your direct appeal?

Yes

No

If Yes, why shouldn't this Court follow the Court of Appeals' decision?

C. Claim Three:

(i) Supporting Facts:

(ii) Did you raise this claim for relief in your direct appeal?

Yes

No

If Yes, why shouldn't this Court follow the Court of Appeals' decision?

D. Claim Four:

(i) Supporting Facts:

(ii) Did you raise this claim for relief in your direct appeal?

Yes

No

If Yes, why shouldn't this Court follow the Court of Appeals' decision?

*Please state any additional claims for relief by attaching pages,
following the format of questions (i) and (ii) as above.*

6. Were you charged in more than one case in this Court at the same time?

Yes

No

7. Do you want the Court to appoint new counsel, not previously involved in this case, to represent you?

Yes

No

8. Defendant/Movant asks the Court to grant the following relief:

and/or any other relief to which Defendant/Movant may be entitled.

Signature of Attorney (if any)

Defendant/Movant's Declaration

- A. I am the Defendant/Movant in this action. I understand that submission of a false statement or false answer to any question may subject me to penalties for perjury and/or dismissal or denial of this motion. I declare under penalty of perjury that I have read this motion and that the information contained in it is true and correct to the best of my knowledge. 28 U.S.C. § 1746; 18 U.S.C. § 1621.

- B. I will keep the Court informed of my current mailing address. I understand that failure to do so may result in dismissal of this Motion without actual notice to me.

- C. *Incarcerated Prisoners Only:* This Motion was deposited in the prison system for legal mail on:

the ____ day of _____, 20____.

Signature of Defendant/Movant

Date Signed