

STATE OF MAINE

- ☐ UNIFIED CRIMINAL DOCKET
☐ SUPERIOR COURT
☐ DISTRICT COURT

County: _____
Location: _____
Docket No: _____

Petitioner (*Print full name as it appears on Criminal Judgment*)

Date of Birth: _____

v.

**PETITION FOR
POST-CONVICTION REVIEW**

STATE OF MAINE

I seek a review of the following Criminal Judgment [15 M.R.S. § 2121(1)] or post-sentencing proceeding [15 M.R.S. § 2121(2)].

A. TRIAL COURT INFORMATION

1. My case was filed in the following court:
☐ Superior Court/Unified Criminal Docket in _____ (County)
☐ District Court in _____ (Town or City)
2. The Docket Number of my case is: _____
3. The date of the Criminal Judgment in my case is: _____
4. The presiding Judge or Justice in my case was: _____
5. This is a list of the crime(s) for which I was charged in my case and my plea to each charge:
(*For example: Charge = Theft; and Plea = Not Guilty*):

Charge(s)	Plea(s)
_____	_____
_____	_____
_____	_____

6. I was convicted of the following charges and given the following sentence(s) in my case:

Charge(s)	Sentence(s)
<i>(For example: Charge = Theft; and Sentence = 6 years; all but 18 months suspended; 2 years probation):</i>	
_____	_____
_____	_____
_____	_____

7. I was convicted of these charge(s) following:
☐ Court acceptance of my plea(s) of guilty or nolo contendere
☐ A Jury Trial
☐ A Non-Jury (Bench) Trial

8. I was found not criminally responsible by reason of insanity following:
- ☐ Court acceptance of my plea(s) of guilty or nolo contendere
 - ☐ A Jury Trial
 - ☐ A Non-Jury (Bench) Trial
9. [Answer the following only if you had a Jury Trial or a Bench Trial]
- ☐ I testified at the trial
 - ☐ I did not testify at the trial
10. At the time of the trial or plea(s) in my case:
- ☐ I was represented by Attorney _____
 - ☐ I was not represented by an attorney.
11. Are you asking the court to assign an attorney to represent you in this Post-Conviction Review?
- ☐ Yes
 - ☐ No
- (If you answered "Yes" to question 11, then (a) you must fill out a Motion for Determination of Indigency and Assignment of Counsel [Form No. CR-032]; (b) if you are in jail/prison you must also obtain a certificate from that jail/prison as to the amount of money or securities on deposit to your credit in any account in that institution; and (c) file both documents with this petition)*

B. RESTRAINT OR IMPEDIMENT (15 M.R.S. § 2124)

"Restraint or Impediment" refers to how the Criminal Judgment or post-sentencing proceeding you are challenging presently affects your life or will affect your life in the future.

Check only the box(es) that apply to you.

- ☒ 1. The Criminal Judgment I am challenging is causing me a **PRESENT DIRECT RESTRAINT OR OTHER IMPEDIMENT** because:
- ☐ I am incarcerated at (name of jail/prison) _____
 - ☐ I am on probation, parole, or other conditional release
 - ☐ I was sentenced to an unconditional discharge
 - ☐ The jail/prison sentence that I received was completely satisfied at the time the sentence was imposed by the court because of credit for time that I had already earned
 - ☐ My sentence to jail/prison, probation, parole or other conditional release must be served in the future because I am presently on bail while my appeal of this Criminal Judgment is pending
 - ☐ My sentence to jail/prison, probation, parole or other conditional release must be served in the future because I must serve another sentence first
 - ☐ I was ordered to pay a fine or restitution in my case, but I have not fully paid that fine or restitution
 - ☐ I was sentenced to perform community service work in my case, but I have not fully completed that work
 - ☐ The Criminal Judgment is a juvenile disposition, which restrains or impedes me in the following way: _____
 - ☐ I am committed to the Maine Department of Health and Human Services because I was found not criminally responsible by reason of insanity. **I understand that I cannot use this petition for post-conviction review to ask to be released or discharged from an institutional inpatient residence.**

- ☐ 2. The Criminal Judgment is causing me a **FUTURE RESTRAINT OR OTHER IMPEDIMENT** because I am presently serving a jail/prison sentence resulting from another case and, after that, I will be committed to the Maine Department of Health and Human Services as a result of being found not criminally responsible by reason of insanity in the Criminal Judgment that I am challenging. **I understand that I cannot use this petition for post-conviction review to ask to be released or discharged from an institutional inpatient residence.**
- ☐ 3. The Criminal Judgment is causing me a **PRESENT INDIRECT RESTRAINT OR OTHER IMPEDIMENT** because:
- ☐ After I was convicted of the crime(s) in the Criminal Judgment that I am challenging, I was convicted of a new crime and sentenced to jail/prison; **AND**
I received a longer sentence for the new crime than what I otherwise would have received because of the Criminal Judgment I am challenging, **AND**
Both the crime(s) in the Criminal Judgment I am challenging and the new crime are punishable by a sentence of a year or more in prison (*Class A, B or C crimes*)
- ☐ After I was convicted of the crime(s) in the Criminal Judgment that I am challenging, I was convicted of a new crime and sentenced to jail/prison; **AND**
By law, the new crime for which I am serving a sentence required proof that I was convicted of the crime(s) in the Criminal Judgment that I am challenging, **AND**
The crime(s) in the Criminal Judgment that I am challenging is punishable by one year or more in prison (*Class A, B or C crime*), and the new crime for which I have been convicted is either
- ☐ Punishable by one year or more in prison (*Class A, B or C crime*), or
- ☐ Was committed in another state or federal jurisdiction and is classified in that jurisdiction as a felony or an infamous crime
- ☐ The Criminal Judgment I am challenging is based on my plea of guilty or nolo contendere, which was accepted by the trial court on or after March 31, 2010; **AND**
I was represented by an attorney at the time of my plea in that case; **AND**
I was not a citizen of the United States; **AND**
As a result of my plea, I am subject to the following pending deportation proceeding under federal immigration law
- ☐ Place of deportation proceeding _____
- ☐ Date of deportation proceeding _____
- ☐ 4. The post-sentencing proceeding [15 M.R.S. § 2121(2)] I am challenging that impedes me in regard to my incarceration or its length is: _____

I understand that I **cannot** challenge a court proceeding or administrative action that is excluded under the statutory definition of “post-sentencing proceeding.”

C. GROUNDS FOR RELIEF (15 M.R.S. § 2125). The Criminal Judgment I am challenging or the sentence I received is unlawful or unlawfully imposed, or the impediment to me that resulted from the post-sentencing proceeding is unlawful, as a result of the following error(s) or ground(s) for relief in my case. [**CAUTION: If you fail to set forth any grounds for relief in your Petition, you may be prevented from presenting them at a later date**]

1. Ground One: _____

Supporting FACTS: _____

2. Ground Two: _____

Supporting FACTS: _____

3. Ground Three: _____

Supporting FACTS: _____

4. Ground Four: _____

Supporting FACTS: _____

D. WAIVER OF GROUNDS FOR RELIEF (15 M.R.S. § 2128)

Please answer the following questions:

1. Did you appeal the Criminal Judgment or the post-sentencing proceeding you are challenging in this Petition to the Maine Supreme Judicial Court or any other court?

☐ Yes

☐ No

2. If you answered “Yes” to question 1, did you raise the same errors or grounds for relief in your appeal that you are now raising in this Petition?

☐ Yes

☐ No

3. If you answered “No” to question 2, please explain why you did not raise the same errors or grounds for relief in your appeal? _____

4. Have you previously filed a petition for post-conviction review regarding the Criminal Judgment or post-sentencing proceeding that you are challenging in this Petition?
- ☐ Yes
- ☐ No
5. If you answered “Yes” to question 4, did you raise any of the same errors or grounds for relief in your previous petition that you have raised in this Petition?
- ☐ Yes
- ☐ No
6. If you answered “No” to question 5, please explain why you could not have raised those same errors or grounds for relief in your earlier petition? _____
- _____
- _____

E. EXHAUSTION OF REMEDIES (15 M.R.S. § 2126)

If you are challenging the Criminal Judgment, please answer the following questions:

1. Did you file any motions in the trial court challenging the Criminal Judgment that you are challenging in this Petition? *(For example: motion for acquittal; motion for a new trial; motion for correction or reduction of sentence)*
- ☐ Yes
- ☐ No
2. If you answered “Yes” to question 1, what were the motions; what was the result of each motion; and what was the date of each result? _____
- _____
- _____
3. Did you appeal the Criminal Judgment you are challenging in this Petition to the Maine Supreme Judicial Court?
- ☐ Yes
- ☐ No
4. If you answered “Yes” to question 3, what was the decision of the Maine Supreme Judicial Court and the date of that decision? _____
- _____
- _____
5. Did you apply to the Maine Supreme Judicial Court for permission to appeal your sentence in the Criminal Judgment you are challenging in this Petition?
- ☐ Yes
- ☐ No
6. If you answered “Yes” to question 5, what was the decision of the Maine Supreme Judicial Court and the date of that decision? _____
- _____
- _____

7. Did you file a petition for clemency (pardon) to the Governor of Maine related to the Criminal Judgment you are challenging in this Petition?
- ☐ Yes
- ☐ No
8. If you answered “Yes” to question 7, what was the Governor’s decision and the date of that decision?
- _____
- _____
9. Did you file a petition for a Writ of Habeas Corpus in the United States District Court related to the Criminal Judgment you are challenging in this Petition?
- ☐ Yes
- ☐ No
10. If you answered “Yes” to question 9, answer each of the following questions:
- a. Date your petition for a Writ of Habeas Corpus was filed: _____
- b. The U.S. District Court’s decision: _____
- c. Date of U.S. District Court’s decision: _____
- d. U.S. District Court’s Docket Number: _____
- e. If you appealed the decision of the U.S. District Court to the First Circuit Court of Appeals, what was the decision and date of the decision of that appellate court: _____
- _____
11. What other remedies did you seek related to the Criminal Judgment you are challenging in this Petition?
- _____
- _____

If you are challenging the post-sentencing proceeding, please answer the following questions:

12. Did you seek relief by means of a court proceeding regarding the post-sentencing proceeding you are challenging in this petition?
- ☐ Yes
- ☐ No
13. If you answered “Yes” to question 12, what was the relief you sought; in what court did you seek it; what was the result; and what was the date of the result? _____
- _____
14. Did you seek relief by means of administrative action regarding the post-sentencing proceeding you are challenging in this petition?
- ☐ Yes
- ☐ No
15. If you answered “Yes” to question 14, what was the name of the administrative agency; what was the agency’s decision; and what was the date of the decision? _____
- _____
- _____

16. If you answered “Yes” to question 12 or 14, did you appeal from the post-sentencing proceeding to the Maine Supreme Judicial Court or any other court?

- ☐ Yes
☐ No

17. If you answered “Yes” to question 16, what was the decision of the appellate court and the date of that decision? _____

F. TIME FOR FILING (15 M.R.S. § 2128-B).

Please provide any dates for the following that apply regarding, the Criminal Judgment or post-sentencing proceeding that you are challenging in this Petition.

1. Please check and complete all the following that apply:

- ☐ Date of the Criminal Judgment or post-sentencing proceeding: _____
☐ Date your appeal was decided: _____
☐ Date that a new law supporting one or more of your grounds for relief went into effect: _____
☐ Date that you learned about new facts supporting one or more of your grounds for relief: _____
☐ Date of any final administrative action: _____

2. If you checked any of the boxes in 1, is this petition being brought more than one year after the most recent date listed by you?

- ☐ Yes
☐ No

3. If you answered “Yes” to question 2, please state why your petition was not brought within the required one-year period: _____

4. If you are subject to a pending deportation proceeding under federal immigration law, please complete the following:

- a. Date that you discovered that deportation proceedings have been started against you: _____

- b. Was your petition for post-conviction review brought more than 60-days after this date?
☐ Yes
☐ No
- c. If you answered “Yes” to 4(b), please state why your petition was not brought within the required 60-day period: _____

G. CONCLUSION

Wherefore, I pray that the court grant me the following relief:

Date: _____

Signature _____

Print name _____

Address _____

H. OATH OR AFFIRMATION

The Petitioner, _____, being first duly sworn, deposes (affirms) and says that he/she is the Petitioner named in the foregoing Petition; that he/she has read the same; that all matters set forth are true, except such matters as are alleged on information and belief; and, as to those matters, he/she believes them to be true.

Date: _____

Signature _____

Print name _____

Subscribed and sworn to (affirmed) before me this _____ day of _____.

(Month)

(Year)

(Notary Public) (Attorney)