

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:
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:

Table with 2 columns: Charge(s), Plea(s)

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

Table with 2 columns: Charge(s), Sentence(s)

- 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 that 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 that 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 _____
