IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS

GENERAL ORDER ADOPTING NEW FORMS FOR PRISONERS FILING ACTIONS UNDER 28 U.S.C. § 2254

It is hereby **ORDERED**, effective immediately, that this court adopt a prescribed form for prisoners filing petitions for a writ of habeas corpus under 28 U.S.C. § 2254. The prescribed form is attached hereto as Exhibit A. Petitions may be accepted and filed in other forms at the discretion of the court; however, completion of the prescribed form may be required as an auxiliary pleading.

General Order 86-16 is hereby RESCINDE	ED.
SIGNED this day of August, 200	09.
FOR THE COURT:	
	DAVID FOLSOM
	DAVID FOLSOM Chief Judge
	Cilici suage

IN THE UNITED STATES DISTRICT COURT

FOR THE	DISTRICT OF TEXAS
	DIVISION
	OF HABEAS CORPUS BY STATE CUSTODY
PETITIONER (Full name of Petitioner)	CURRENT PLACE OF CONFINEMENT
vs.	PRISONER ID NUMBER
RESPONDENT (Name of TDCJ Director, Warden, Jailor, or authorized person having custody of petitioner)	CASE NUMBER (Supplied by the Clerk of District Court)

INSTRUCTIONS - READ CAREFULLY

- 1. The petition must be legibly handwritten or typewritten, and signed and dated by the petitioner, under penalty of perjury. Any false statement of an important fact may lead to prosecution for perjury. Answer all questions in the proper space on the form.
- 2. Additional pages are not allowed except in answer to questions 11 and 20. Do not cite legal authorities. Any additional arguments or facts you want to present must be in a separate memorandum. The petition, including attachments, may not exceed 20 pages.
- 3. Receipt of the \$5.00 filing fee or a grant of permission to proceed *in forma pauperis* must occur before the court will consider your petition.
- 4. If you do not have the necessary filing fee, you may ask permission to proceed *in forma pauperis*. To proceed *in forma pauperis*, (1) you must sign the declaration provided with this petition to show that you cannot prepay the fees and costs, <u>and</u> (2) if you are confined in TDCJ-CID, you must send in a certified *In Forma Pauperis* Data Sheet form from the institution in which you are confined. If you are in an institution other than TDCJ-CID, you must send in a certificate completed by an authorized officer at your institution certifying the amount of money you have on deposit at that institution. If you have access or have had access to enough funds to pay the filing fee, then you must pay the filing fee.

- 5. Only judgments entered by one court may be challenged in a single petition. A separate petition must be filed to challenge a judgment entered by a different state court.
- 6. Include all of your grounds for relief and all of the facts that support each ground for relief in this petition.
- 7. Mail the completed petition and one copy to the U. S. District Clerk. The "Venue List" in your unit law library lists all of the federal courts in Texas, their divisions, and the addresses for the clerk's offices. The proper court will be the federal court in the division and district in which you were convicted (for example, a Dallas County conviction is in the Northern District of Texas, Dallas Division) or where you are now in custody (for example, the Huntsville units are in the Southern District of Texas, Houston Division).
- 8. Failure to notify the court of your change of address could result in the dismissal of your case.

PETITION

What are y	rou challenging? (Check <u>all</u> that apply)	
	A judgment of conviction or sentence, probation or deferred-adjudication probat	(Answer Questions 1-4, 5-12 & 20-25)
	A parole revocation proceeding.	(Answer Questions 1-4, 11, 13-14 & 20-25)
	A disciplinary proceeding.	(Answer Questions 1-4, 15-19 & 20-25)
	Other:	(Answer Questions 1-4, 10-11 & 20-25)

All petitioners must answer questions 1-4:

to challenge in this habeas action:

Note: In answering questions 1-4, you must give information about the conviction you are presently serving. Do not answer questions 1-4 with information about a disciplinary case. Failure to follow this instruction may result in a delay in processing your case.

1.	Name and location of the court (district and county) that entered the judgment of conviction and sentence that you are presently serving or that is under attack:
2.	Date of judgment of conviction:
3.	Length of sentence:
4.	Identify the docket numbers (if known) and all crimes of which you were convicted that you wish

Note: If you are only challenging the outcome of a parole revocation or disciplinary proceeding, then skip to page 5.

<u>Judgment of Conviction or Sentence, Probation or Deferred-Adjudication Probation:</u>

5.	Wha	t was your plea? (Chec	k one)						
		Not Guilty		Guilty		Nolo Conten	idere		
6.	Kind	of trial: (Check one)		Jury		Judge Only			
7.	Did y	you testify at trial?		Yes		No			
8.	Did :	you appeal the judgmer	nt of co	nviction?		Yes		No	
9.	If yo	u did appeal, in what ap	pellate	e court did you	ı file you	r direct appeal?			
				Car	use Numl	oer (if known)_			
	Wha	t was the result of your	direct	appeal (affirm	ed, modi	fied or reversed	1)?		
	Wha	t was the date of that de	ecision	?					
		u filed a petition for disc wing:	cretion	ary review afto	er the dec	ision of the cou	rt of app	eals, answer the	
	Grou	ınds raised:							
		ılt:							
		Date of result: Cause Number (if known):							
	-	u filed a petition for a wing:	writ of	<i>certiorari</i> wi	th the Un	ited States Sup	reme Co	ourt, answer the	
	Resu	lt:							
	Date	of result:							
10.	Othe in an	r than a direct appeal, ha y court, state or federal may have filed.	ave you	filed any peti	tions, app	lications or mot	ions fro	m this judgment	
		Yes □	No						
11.	If yo	ur answer to 10 is "Yes	s," give	the following	g informa	tion:			
	Nam	e of court:							
	Natu	re of proceeding:							

	Cause number (if known	own): _			
	date from the particu	lar cour	t:		plication or motion as shown by a file-stamped
	Grounds raised:				
	What was the decisio	n?			
	Name of court that is	ssued the	e final decision	n:	
	As to any second pet	ition, ap	plication or m	otion, g	ive the same information:
	Name of court:				
	Nature of proceeding	<u>;:</u>			
	Cause number (if known	own): _			
	date from the particu	lar cour	t:		plication or motion as shown by a file-stamped
	Date of final decision	n:			
	What was the decisio	n?			
	Name of court that is	ssued the	e final decision	n:	
		-			motions, please attach an additional sheet of application, or motion.
12.	Do you have any fututhis petition?	ire sente	nce to serve af	ter you f	inish serving the sentence you are attacking in
	ans pounon:		Yes		No

	(a)	-	or answer is served in th	-	the nam	e and locati	on of the	court that in	mposed the	sentence
	(b)	Give	the date and	l length of	the sente	nce to be se	erved in tl	ne future: _		
	(c)		you filed, o	•		e, any petitio	on attacki	ng the judgi	ment for the	sentence
			Yes		No					
<u>Parol</u>	e Revoc	ation:								
13.	Date a	and loca	ation of you	r parole rev	vocation:					
14.	•	you file revoca		ons, applica	ations, or	motions in	any state (or federal co	ourt challeng	ging your
			Yes		No					
	If you	r answe	er is "yes,"	complete Q	uestion	11 above re	garding y	our parole 1	revocation.	
<u>Disci</u> j	olinary	Procee	edings:							
15.	For yo	our orig	ginal convic	tion, was th	nere a fin	ding that yo	ou used o	exhibited	a deadly we	apon?
			Yes		No					
16.	Are yo	ou eligi	ble for relea	ase on man	datory su	pervision?		Yes		No
17.	Name	and lo	cation of th	e TDCJ Un	it where	you were fo	ound guil	ty of the dis	sciplinary vi	iolation:
	Discip	olinary	case numbe	er:						
	What	was the	e nature of t	he disciplin	ary char	ge against y	ou?			
18.	Date y	ou wer	e found gui	lty of the di	sciplinar	y violation:				
	Did yo	ou lose	previously	earned goo	d-time c	redits?		Yes		No
	•		er is "yes," j sult of your	<u>.</u>		ŭ	od time d	•	were forfeit	ed by the

	Identify all other punishment imposed, including the length of any punishment if applicable, any changes in custody status, and the number of earned good-time credits lost:
19.	Did you appeal the finding of guilty through the prison or TDCJ grievance procedure?
	□ Yes □ No
	If your answer to Question 19 is "yes," answer the following:
	Step 1 Result:
	Date of Result:
	Step 2 Result:
	Date of Result:
All p	etitioners must answer the remaining questions:
20.	For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Summarize <u>briefly</u> the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting them. CAUTION: To proceed in the federal court, you must ordinarily first exhaust your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.
A.	GROUND ONE:
	Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

B.	GROUND TWO:
	Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):
C.	GROUND THREE:
	Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):
D.	GROUND FOUR:
	Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

•	Have you previously filed a federal habeas petition attacking the same conviction, parol revocation, or disciplinary proceeding that you are attacking in this petition?
	□ Yes □ No
	If your answer is "yes," give the date on which <u>each</u> petition was filed, the federal court in which it was filed, and whether the petition was (a) dismissed without prejudice, (b) dismissed with prejudice or (c) denied.
	If you previously filed a federal petition attacking the same conviction and such petition was denied or dismissed with prejudice, did you receive permission from the Fifth Circuit to file a second petition as required by 28 U.S.C. § 2244(b)(3) and (4)? Yes No
2.	Are any of the grounds listed in question 20 above presented for the first time in this petition?
	□ Yes □ No
	If your answer is "yes," state <u>briefly</u> what grounds are presented for the first time and give you reasons for not presenting them to any other court, either state or federal.
	Do you have any petition or appeal now pending (filed and not yet decided) in any court, either state or federal, for the judgment you are challenging?
	□ Yes □ No
	If "yes," identify each type of proceeding that is pending (i.e., direct appeal, art. 11.07 application or federal habeas petition), the court in which each proceeding is pending, and the date each proceeding was filed.
	Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:
	(a) At preliminary hearing:

	(b)	At a	rraignment and plea:
	(c)	At tr	rial:
	(d)		entencing:
	(e)		ppeal:
	, ,		
	(f)	ın an	ny post-conviction proceeding:
	(g)	On a	appeal from any ruling against you in a post-conviction proceeding:
<u>Time</u>	eliness	of Petit	ion:
25.	year	ago, you	ment of conviction, parole revocation or disciplinary proceeding became final over one a must explain why the one-year statute of limitations contained in 28 U.S.C. § 2244(d) your petition.*
*	The A		ism and Effective Death Penalty Act of 1996 ("AEDPA"), as contained in 28 U.S.C. § 2244(d), provides
	(1)		-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody ant to the judgment of a State court. The limitation period shall run from the latest of -
		(A)	the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
		(B)	the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such State action;
		(C)	the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been made newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
		(D)	the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.
	(2)		me during which a properly filed application for State post-conviction or other collateral review with a to the pertinent judgment or claim is pending shall not be counted toward any period of limitation

under this subsection.

	Signature of Attorney (if any)
	under penalty of perjury that the foregoing is true and correct corpus was placed in the prison mailing system on
	(month, day, year).
Executed (signed) on	(date).
Executed (signed) on	(date). Signature of Petitioner (<u>required</u>)

Wherefore, petitioner prays that the Court grant him the relief to which he may be entitled.