

# MOTION FOR POST CONVICTION COLLATERAL RELIEF

<p>COMMONWEALTH OF PENNSYLVANIA</p> <p>VS</p> <p>_____</p> <p>(Name of Defendant)</p>	<p>COURT AND DOCKET NUMBERS</p> <p>To be filled in by Clerk of Court</p>
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**NOTE: List below those informations or indictments & offenses for which you have not completed your sentence.**

**INFORMATION OR INDICTMENT NUMBERS:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**I WAS CHARGED WITH THE FOLLOWING CRIMES:**

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\_\_\_\_\_

1. MY NAME IS:

2. I AM NOW

(A)  On Parole (B)  On Probation (C)  Confined in \_\_\_\_\_

3.

I WAS SENTENCED ON \_\_\_\_\_, 19 \_\_\_\_\_ TO A TOTAL TERM  
OF \_\_\_\_\_, COMMENCING ON \_\_\_\_\_, 19 \_\_\_\_\_ BY  
JUDGE(S) \_\_\_\_\_

FOLLOWING A:  Trial by jury  Plea of guilty  
 Trial by a judge without a jury  Plea of nolo contendere

4. I AM ELIGIBLE FOR RELIEF BECAUSE OF:

- (I) A violation of the constitution of Pennsylvania or laws of this Commonwealth or the constitution of the United States which, in the circumstances of the particular case, so undermined the truth-determining process that no reliable adjudication of guilt or innocence could have taken place.
- (II) Ineffective assistance of counsel which, in the circumstances of the particular case, so undermined the truth-determining process that no reliable adjudication of guilt or innocence could have taken place.
- (III) A plea of guilty unlawfully induced where the circumstances make it likely that the inducement caused an individual to plead guilty.
- (IV) The improper obstruction by Commonwealth officials of the petitioner's right of appeal where a meritorious appealable issue existed and was properly preserved in the trial court.
- (V) A violation of the provisions of the constitution, law or treaties of the United States which would require the granting of federal habeas corpus relief to a state prisoner.
- (VI) The unavailability at the time of trial of exculpatory evidence that has subsequently become available and that would have affected the outcome of the trial if it had been introduced.
- (VII) The imposition of a sentence greater than the lawful maximum.
- (VIII) A proceeding in a tribunal without jurisdiction.

**5. THE FACTS IN SUPPORT OF THE ALLEGED ERROR(S) UPON WHICH THIS MOTION IS BASED ARE AS FOLLOWS: (State facts clearly and fully; argument, citations, or discussions of authorities shall not be included.)**

**(A) I know the following facts to be true of my own personal knowledge:**

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**(B) The following facts were made known to me by means other than my own personal knowledge (Explain how and by whom you are informed):**

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**(C) In the event my appeal is allowed as requested under #4, the following are the matters which I intend to assert on that appeal (Specify the matters to be asserted if appeal is allowed)**

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**6. SUPPORTING EXHIBITS**

(A) In support of this motion I have attached as exhibits:

- Affidavits [Exhibit(s) No. \_\_\_\_\_]
- Records [Exhibit(s) No. \_\_\_\_\_]
- Other Supporting Evidence [Exhibit(s) No. \_\_\_\_\_]

(B) I have not attached any affidavits, records or other supporting evidence because

**7. I HAVE TAKEN THE FOLLOWING ACTION(S) TO SECURE RELIEF FROM MY CONVICTION(S) OR SENTENCE(S):**

(A) Direct Appeal

(IF "YES," name the court(s) to which appeal(s) was/were taken, date, term and number, and result.)

- YES  NO

(B) Previous proceedings in the courts of the Commonwealth of Pennsylvania

- YES  NO

(IF "YES," name the type of proceedings (such as habeas corpus, etc.) — including former proceedings under the Post Conviction Hearing Act the Court(s) in which petition(s) was/were filed, date, term and number, and result, including all appeals.)

(C) Habeas Corpus or other petitions in Federal Courts

- YES  NO

(IF "YES," name the district in which petition(s) was/were filed, date(s), Court Number—civil action or miscellaneous, and result, including all appeals.)

(D) Other legal proceedings

- YES  NO

(IF "YES," give complete details—type of action, court in which filed, date, term and number, and result, including all appeals.)

8. FOLLOWING MY ARREST, I WAS REPRESENTED BY THE FOLLOWING LAWYER(S): (Give the lawyer's name and the proceeding at which he represented you.)

9. THE ISSUES WHICH I HAVE RAISED IN THIS MOTION HAVE NOT BEEN PREVIOUSLY LITIGATED AND ONE OF THE FOLLOWING APPLIES:

- (I) The allegation of error has not been waived.
- (II) If the allegation of error has been waived, the alleged error has resulted in the conviction or affirmance of sentence of an innocent individual.”
- “(III) If the allegation of error has been waived, the waiver of the allegation of error during pretrial, trial, post-trial or direct appeal proceedings does not constitute a state procedural default barring federal habeas corpus relief.”

The failure to litigate this issue(s) prior to or during trial or on direct appeal could not have been the result of any rational strategic or tactical decision by counsel.

10. BECAUSE OF THE FOREGOING REASONS, THE RELIEF WHICH I DESIRE IS:

- (A)  Release from custody and discharge
- (B)  A new trial
- (C)  Correction of sentence
- (D)  Other relief (specify): \_\_\_\_\_

11. (A) I am  ABLE  NOT ABLE to pay the costs of this proceeding.

I have \$ \_\_\_\_\_ in my prison account.

(B) My other financial resources are: \_\_\_\_\_

12. (A)  I do not have a lawyer and I am without financial resources or otherwise unable to obtain a lawyer

(1)  I request the court to appoint a lawyer to represent me.

(2)  I do not want a lawyer to represent me.

(B)  I am represented by a lawyer. (Give name and address of your lawyer.)

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(Signature of Defendant)

### UNSWORN DECLARATION

I, \_\_\_\_\_ do hereby verify that  
Your Name  
the facts set forth in the above motion are true and correct  
to the best of my personal knowledge or information and  
belief, and that any false statements herein are made sub-  
ject to the penalties of Section 4904 of the Crimes Code  
(18 Pa. C.S. § 4904), relating to unsworn falsification to  
authorities.

\_\_\_\_\_  
Signature of Defendant

No Notary  
Required

COMMONWEALTH OF PENNSYLVANIA

VS

(Name of Defendant)

IN THE CRIMINAL COURTS OF THE COUNTY OF

Criminal  
Action No. \_\_\_\_\_ of \_\_\_\_\_ 19 \_\_\_\_\_

ORDER

AND NOW this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ Upon consideration of the foregoing motion:

1.  The motion is returned to defendant for amendment as follows, such amendment to be made on or before \_\_\_\_\_, 19 \_\_\_\_\_

2.  A rule is granted upon the Commonwealth of Pennsylvania to show cause why a hearing should not be granted. The rule is returnable on or before \_\_\_\_\_ 19 \_\_\_\_\_

3.  The request to proceed as a poor person, without the payment of costs, is  granted  denied.

4.  Upon finding that defendant is unable to obtain a lawyer \_\_\_\_\_ Esq., is appointed to represent him.

5.  The Clerk of this Court is ordered and directed to do the following forthwith:

(a) To serve a copy of this motion and this order upon the District Attorney of \_\_\_\_\_ County.

(b) To send a copy of this motion and this order to \_\_\_\_\_ Esq., the lawyer for the defendant.

(c) To send a copy of this order to the defendant.

6.

J.