



**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

PRO SE GUIDEBOOK

FOR

MOTIONS FILED UNDER 28 U.S.C. § 2255

November 2019

This Guidebook is intended to be an informative and practical resource for understanding the basic procedures of the Court. The statements in this Guidebook do not constitute legal advice. DO NOT CITE THIS GUIDEBOOK AS AUTHORITY. This Guidebook does not take the place of the [Federal Rules](#), this Court's [Local Rules](#), or the individual practices of the Judges of this Court. All parties using this Guidebook remain responsible for complying with all applicable rules of procedure. If there is any conflict between this Guidebook and the applicable rules, the rules govern.



INTRODUCTION

This Guidebook is intended to help you understand the procedures that you must follow if you represent yourself in this Court. You cannot rely on this Guidebook alone, however, because it does not address every situation that might arise in your case. Moreover, this Guidebook does not offer any information about the specific issues in your matter. **And this Guidebook is not legal advice.**

The Court encourages you to carefully review this Guidebook together with [Title 28 of the United States Code \(U.S.C.\) section \(§\) 2255](#); the [Rules Governing Section 2255 Proceedings for the United States District Courts](#); the Federal Rules of Civil Procedure; the Federal Rules of Criminal Procedure; and this Court's Local Rules. If you are a prisoner, the United States Code should be available in your prison law library. The Federal Rules of Civil and Criminal Procedure appear at the end of Title 28 of the United States Code. The Rules Governing Section 2255 Proceedings appear immediately after 28 U.S.C. § 2255 in the United States Code. If your prison law library does not have the most recent version of this Court's Local Rules, they can be obtained from the Clerk's Office by request. Each of these resources is also available online.

This Guidebook is organized in the sequence that a motion under § 2255 proceeds through the Court and is written in a question-and answer format. The Table of Contents, found below, includes each question that this Guidebook addresses.



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CHAPTER ONE: GENERAL INFORMATION

What is the Clerk's Office?

The Clerk's Office maintains the Court's records. Most of your interactions with the Court will be through the Clerk's Office, where you will file the documents that will be reviewed by the judge. The Clerk's Office cannot give you legal advice or tell you when a judge might make a decision in your case, but the Clerk's Office can tell you whether a particular document has been filed and can provide copies of documents in the court record at a cost of \$.50 per page (payable in advance).

What does it mean to file documents with the Clerk's Office?

The Clerk's Office receives documents on behalf of the Court and maintains a record of the documents received. By filing a document with the Clerk's Office, you ensure that the document becomes part of the official record in your case. This record allows both you and the judges to be certain of what documents have been presented in a case.

You may file any document either by mailing the document to the Clerk's Office or by personally delivering the document to the Clerk's Office during business hours. After receiving your documents, the Clerk's Office will record (or "docket") your papers and send them to the judge assigned to your case.

How do I contact the Clerk's Office?

You may contact the Clerk's Office at the following address and phone number:



United States District Court for the District of Minnesota
Clerk's Office
300 South Fourth Street, Suite 202
Minneapolis, MN 55415

(612) 664-5000



CHAPTER TWO: THE BASICS

What is a motion under § 2255?

A motion under 28 U.S.C. § 2255 is a request by a prisoner convicted of a criminal offense in a federal court to vacate, set aside, or correct his sentence.

Where is a motion under § 2255 filed?

A motion under § 2255 is filed in the prisoner's criminal case where the challenged judgment was entered. Put another way, a prisoner should file his § 2255 motion in the district where he was *sentenced*, not the district in which he is currently *incarcerated* (if those districts differ).

Do you meet the “in custody” requirement?

A prisoner cannot secure relief under § 2255 unless he is being held “in custody” at the time that the motion is filed. The “in custody” requirement sometimes, though not always, is met if the prisoner is on probation, parole, or supervised release. Detention at a jail or prison also constitutes being “in custody” for purposes of § 2255.

What issues can be raised in a § 2255 motion?

28 U.S.C. § 2255 provides that a federal prisoner may seek release “upon the ground that the sentence was imposed in violation of the Constitution, or laws of the United States, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack” Claims of constitutional violations at the plea stage, at trial, or at



sentencing may be raised in a § 2255 proceeding. So may a claim that the sentencing court was without jurisdiction to conduct the criminal proceedings, or a claim that the court imposed a sentence longer than the maximum permitted by law.

Are there any issues that cannot be raised in a § 2255 motion?

Yes. A motion under § 2255 is used to challenge the legality of a conviction or sentence *itself*, not a decision of the Federal Bureau of Prisons (“BOP”) concerning how that sentence should be carried out. Claims regarding the BOP’s calculation of release dates, retraction of good-time credits, or placement decisions should be raised in a habeas petition filed in the district of incarceration, not a motion under § 2255 filed in the district of conviction.

In addition, a motion under § 2255 cannot be used to challenge the conditions of a prisoner’s confinement. Such a claim must be brought in a traditional civil lawsuit, not a motion under § 2255 in the criminal case. Information about lawsuits of this kind may be found in this District’s Prisoner Civil Rights Federal Litigation Guidebook.

What type of relief is available if motion under § 2255 is granted?

A motion under § 2255 is appropriate for challenging your conviction or sentence imposed in a federal court. If your motion is granted, your conviction or sentence will be vacated to the extent that the conviction or sentence is found to be unlawful. Depending upon the circumstances of your case, you may be resentenced following the conclusion of your § 2255 proceedings. Monetary damages are not available under § 2255.



Is there a limitations period for filing a motion under § 2255?

Yes. Motions under § 2255 are subject to a one-year limitations period. Once that time limit has passed, it is too late to seek relief under § 2255. If you file a motion under § 2255 after that deadline, your motion may be summarily dismissed without consideration of the merits of your claims.

In most cases, the one-year limitation period will begin to run after the judgment you seek to challenge becomes final. Judgment will become final upon denial of a writ of certiorari by the Supreme Court of the United States or, if you do not file a petition for a writ of certiorari, the date on which you became unable to seek further review on direct appeal. If your claim depends upon a new rule of constitutional law that applies retroactively, or if you were impeded by governmental action from filing a motion under § 2255 earlier, or if your motion relies upon a factual predicate that could not with due diligence have been discovered earlier, the limitations window for that claim may begin at a different date. *See* 28 U.S.C. § 2255(f). If you are a prisoner representing yourself, your motion is deemed to be “filed” as of the date that it is properly placed in the prison mail system.

The rules governing the timeliness of motions under § 2255 are both strict and technical. Failure to timely file your motion will likely result in summary denial of your motion.

May I amend my § 2255 motion after I file it?

Maybe. If you want to amend your motion, you will need to follow the procedures for amendments found in Federal Rule of Civil Procedure 15(a) and Local Rule 15.1. Any



claims added to an amended motion, like those in the original motion, must be timely raised.

May I file a second motion under § 2255?

If your motion under § 2255 is deemed to be “second or successive,” you must receive authorization from the United States Court of Appeals for the Eighth Circuit before proceeding in this Court. The Eighth Circuit is permitted to authorize only certain kinds of claims for review in a second or successive motion. *See* 28 U.S.C. § 2255(h). If you received a ruling on the merits of an initial motion under § 2255, any subsequent motion attacking the same conviction will likely be found to be a second or successive motion under § 2255 requiring authorization of the Eighth Circuit.



CHAPTER THREE: HOW TO START A § 2255 PROCEEDING

What are the requirements to start a § 2255 proceeding?

To start a § 2255 proceeding in the District of Minnesota, you must do the following:

- Complete the motion itself, either by using the Court’s form “Motion Under 28 U.S.C. § 2255” (AO243), or by writing your own document. You may also submit any exhibits you believe to be relevant; and
- Mail the documents to the Clerk’s Office at the address provided above.

Keep a copy of the motion for your own records. There is no filing fee for a motion § 2255.

How do I complete the § 2255 form?

You are not required to use the Court’s standard form, but that document will assist you in providing the information needed to decide your motion. Failure to include the necessary information could result in delay or dismissal of your proceedings. Your motion, and all other documents prepared by you for the Court, should be typed or legibly handwritten, preferably in black ink. A copy of the Court’s standard form is included in the appendix to this Guidebook.

Can I challenge the judgments from multiple courts in one § 2255 proceeding?

No. A person who seeks relief from judgments entered in more than one court must file a separate motion covering the judgments of each court. *See* Rule 2(d) of the Rules Governing § 2255 Proceedings.



How should I answer Question 12 on the Motion Under 28 U.S.C. § 2255 form?

Question 12 asks you about your claims and the facts supporting those claims. Your motion must (1) clearly identify each individual claim for relief; (2) briefly describe the factual and legal basis for each claim for relief (3) and state the relief requested. *See* Rule 2(b), Rules Governing § 2255 Proceedings.

May I file attachments with my motion?

If you have documents that support your motion, you may attach copies of the documents to the motion as exhibits. The purpose of an exhibit is to present proof or clarification of an allegation in your motion. If you decide to attach exhibits to your motion, then you should explain or otherwise make clear why you are attaching each exhibit to the motion. You should label each separate exhibit and, if possible, number the pages of each exhibit.

May I file a memorandum of law with my motion?

Yes. A memorandum of law, sometimes called a brief, is a document where you explain your legal arguments. You should only include arguments that support the claims raised in the motion. Pro se litigants may write their memoranda legibly by hand or type their memoranda on standard 8.5x11-inch paper. The memorandum should include page numbers. The Court's Local Rules limits memoranda to 12,000 words unless advance permission to file a longer memorandum is sought and received from the judge.

Do I need to notarize the motion?



No, but you are required to sign all documents (except exhibits) filed with the Court, including your motion. By signing a document, you are attesting that the statements in your document are true to the best of your knowledge. Knowingly making a false material declaration under oath (perjury) can be punished by fine or imprisonment. *See* 18 U.S.C. § 1623. Notarization of court documents, however, is almost always unnecessary.

Do I need to serve a copy of my motion on anyone?

No. You do not need to serve the respondent a copy of your motion. The respondent will be notified of your motion when it is received and filed by the Court.

May I request appointment of counsel?

Yes. Be aware, though, that there is no statutory or constitutional right to counsel in § 2255 proceedings. If you file a motion to appoint counsel, you should explain the particular reasons that you believe appointment of counsel is necessary or appropriate in your case.

How can I find out when my motion was received by the Clerk's Office?

You may request in writing that the Clerk notify you when your motion was received and filed.



CHAPTER FOUR: INITIAL REVIEW

What is initial review?

Your motion under § 2255 will be reviewed by a judge upon filing. The judge will deny the motion if it is clear from the motion itself that you are not entitled to relief. This initial review process may take several weeks.

How will I know the results of the initial review?

If your motion is permitted to go forward, an order will be entered requiring the government to answer the motion. You will receive a copy of this order. If your motion is deficient and cannot be corrected, an order of dismissal will be entered. You will receive a copy of this document also.

The Court's initial review is limited to the motion itself, attached exhibits, and other materials already part of the judicial record. Should the government be required to answer the motion, a review of the record may reveal grounds for dismissal that are not plainly apparent from the motion and exhibits.



CHAPTER FIVE: THE § 2255 PROCEEDINGS

Will the government respond to the motion?

If the motion is not summarily denied, the judge will order the United States Attorney to file a response to the motion within a fixed time.

May I reply to the government's response?

Yes. The Court's scheduling order will set a deadline for the filing of a reply brief.

Is discovery allowed?

Sometimes, but you must request permission from the Court before conducting discovery. *See* Rule 6 of the Rules Governing § 2255 Proceedings. Motions under § 2255 are usually resolved without formal discovery.

Will I get an evidentiary hearing?

Maybe, but only if necessary for resolving a factual issue that cannot be settled from the paper record alone. If an evidentiary hearing is warranted and you cannot afford an attorney, an attorney will be appointed to represent you at the hearing.

Will there be any hearing before the judge decides my case?

Perhaps. Whether further oral argument of the parties is necessary in a case for further development of legal arguments is left to the judges presiding over that case.



CHAPTER SIX: JUDGMENT AND APPEAL

What do I need to do before I file an appeal?

Judgment will be entered after your motion has been resolved. You will receive a copy of the judgment after it is entered, along with instructions on how to pursue an appeal with the United States Circuit Court for the Eighth Circuit. An appeal may only be made after judgment has been entered in your case. The time for filing an appeal starts from the date that the judgment is entered on the docket.

Prisoners proceeding under § 2255 also must receive a certificate of appealability in order to pursue their claims before the appellate court. The district court will grant or deny a certificate of appealability when it enters the final order in your case that is adverse to you. *See* Rule 11 of the Rules Governing § 2255 Proceedings. If the district court grants you a certificate of appealability, then you may proceed and file a notice of appeal. If the district court judge denies you a certificate of appealability, then you may still file a notice of appeal, but the claims that you seek to raise on appeal will not be heard and decided unless the Court of Appeals grants you a certificate of appealability after your notice of appeal has been filed. *See* Rule 22(b) of the Federal Rules of Appellate Procedure. The Court will specify the claims to which the certificate of appealability applies.

How do I file an appeal?

First, you must file a notice of appeal. A notice of appeal form is included in the appendix to this Guidebook. Second, you must pay the \$505.00 filing fee for the appeal. As with the filing fee in the district court, if you cannot afford to pay this fee, you can



apply to proceed without prepaying the fee by completing the AO239 form “Application to Proceed in District Court Without Prepaying Fees or Costs.” Even though you are seeking IFP status on appeal, you should file this application in the district court. If your application is granted, you will not be required to pay the \$505.00 filing fee.

If the district judge denies your motion to proceed IFP on appeal, you may ask the Eighth Circuit to proceed IFP within 30 days after service of this Court’s notice that your appellate IFP application was denied.

How much time do I have to begin my appeal?

You must file your notice of appeal in this Court within 60 days after the judgment is entered. For additional information regarding the time for filing a notice of appeal, *see* Federal Rule of Appellate Procedure 4(a). There are many other steps to beginning and proceeding with your appeal, but they are governed by the Eighth Circuit’s Local Rules and the Federal Rules of Appellate Procedure, which are beyond the scope of this Guidebook.

May I request appointment of counsel on appeal?

Yes, but your request should be filed with the Eighth Circuit. Be warned that there is no statutory or constitutional right to counsel on appeal in § 2255 proceedings.



APPENDIX OF FORMS

The following forms appear in the appendix of this Guidebook:

- ❖ Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody (AO243)
- ❖ Memorandum of Law
- ❖ LR 7.1 Word Count Compliance Certificate
- ❖ Certificate of Service by Mail
- ❖ Notice of Appeal

Motion to Vacate, Set Aside, or Correct a Sentence By a Person in Federal Custody

(Motion Under 28 U.S.C. § 2255)

Instructions

1. To use this form, you must be a person who is serving a sentence under a judgment against you in a federal court. You are asking for relief from the conviction or the sentence. This form is your motion for relief.
2. You must file the form in the United States district court that entered the judgment that you are challenging. If you want to challenge a federal judgment that imposed a sentence to be served in the future, you should file the motion in the federal court that entered that judgment.
3. Make sure the form is typed or neatly written.
4. You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
5. Answer all the questions. You do not need to cite law. You may submit additional pages if necessary. If you do not fill out the form properly, you will be asked to submit additional or correct information. If you want to submit a brief or arguments, you must submit them in a separate memorandum.
6. If you cannot pay for the costs of this motion (such as costs for an attorney or transcripts), you may ask to proceed *in forma pauperis* (as a poor person). To do that, you must fill out the last page of this form. Also, you must submit a certificate signed by an officer at the institution where you are confined showing the amount of money that the institution is holding for you.
7. In this motion, you may challenge the judgment entered by only one court. If you want to challenge a judgment entered by a different judge or division (either in the same district or in a different district), you must file a separate motion.
8. When you have completed the form, send the original and two copies to the Clerk of the United States District Court at this address:

Clerk, United States District Court for _____
Address
City, State Zip Code

9. **CAUTION: You must include in this motion all the grounds for relief from the conviction or sentence that you challenge. And you must state the facts that support each ground. If you fail to set forth all the grounds in this motion, you may be barred from presenting additional grounds at a later date.**
10. **CAPITAL CASES: If you are under a sentence of death, you are entitled to the assistance of counsel and should request the appointment of counsel.**

**MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT
SENTENCE BY A PERSON IN FEDERAL CUSTODY**

United States District Court	District
Name (under which you were convicted):	Docket or Case No.:
Place of Confinement:	Prisoner No.:
UNITED STATES OF AMERICA	Movant (include name under which you were convicted)
v.	

MOTION

1. (a) Name and location of court that entered the judgment of conviction you are challenging:

(b) Criminal docket or case number (if you know):

2. (a) Date of the judgment of conviction (if you know):

(b) Date of sentencing:

3. Length of sentence:

4. Nature of crime (all counts):

5. (a) What was your plea? (Check one)

(1) Not guilty (2) Guilty (3) Nolo contendere (no contest)

(b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, what did you plead guilty to and what did you plead not guilty to?

6. If you went to trial, what kind of trial did you have? (Check one) Jury Judge only

7. Did you testify at a pretrial hearing, trial, or post-trial hearing? Yes No
8. Did you appeal from the judgment of conviction? Yes No
9. If you did appeal, answer the following:
- (a) Name of court:
 - (b) Docket or case number (if you know):
 - (c) Result:
 - (d) Date of result (if you know):
 - (e) Citation to the case (if you know):
 - (f) Grounds raised:

- (g) Did you file a petition for certiorari in the United States Supreme Court? Yes No

If "Yes," answer the following:

- (1) Docket or case number (if you know):
- (2) Result:

- (3) Date of result (if you know):
- (4) Citation to the case (if you know):
- (5) Grounds raised:

10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications concerning this judgment of conviction in any court?

Yes No

11. If your answer to Question 10 was "Yes," give the following information:

- (a) (1) Name of court:
- (2) Docket or case number (if you know):
- (3) Date of filing (if you know):

(4) Nature of the proceeding:

(5) Grounds raised:

(6) Did you receive a hearing where evidence was given on your motion, petition, or application? Yes No

(7) Result:

(8) Date of result (if you know):

(b) If you filed any second motion, petition, or application, give the same information:

(1) Name of court:

(2) Docket or case number (if you know):

(3) Date of filing (if you know):

(4) Nature of the proceeding:

(5) Grounds raised:

(6) Did you receive a hearing where evidence was given on your motion, petition, or application? Yes No

(7) Result:

(8) Date of result (if you know):

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

(1) First petition: Yes No

(2) Second petition: Yes No

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not:

12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE:

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why:

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes No

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion, petition, or application?

Yes No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes No

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes No

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

GROUND TWO:

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why:

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes No

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion, petition, or application?

Yes No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes No

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes No

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is “No,” explain why you did not appeal or raise this issue:

GROUND THREE:

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) Direct Appeal of Ground Three:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why:

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes No

(2) If your answer to Question (c)(1) is “Yes,” state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court’s decision:

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion, petition, or application?

Yes No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes No

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes No

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

GROUND FOUR:

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) Direct Appeal of Ground Four:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why:

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes No

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion, petition, or application?

Yes No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes No

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes No

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is “No,” explain why you did not appeal or raise this issue:

13. Is there any ground in this motion that you have not previously presented in some federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the judgment you are challenging? Yes No

If “Yes,” state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing:

(b) At arraignment and plea:

(c) At trial:

(d) At sentencing:

(e) On appeal:

(f) In any post-conviction proceeding:

(g) On appeal from any ruling against you in a post-conviction proceeding:

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time? Yes No

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

(b) Give the date the other sentence was imposed:

(c) Give the length of the other sentence:

(d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? Yes No

18. TIMELINESS OF MOTION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2255 does not bar your motion.*

* The Antiterrorism and Effective Death Penalty Act of 1996 (“AEDPA”) as contained in 28 U.S.C. § 2255, paragraph 6, provides in part that:

A one-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of —

- (1) the date on which the judgment of conviction became final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

Therefore, movant asks that the Court grant the following relief:

or any other relief to which movant may be entitled.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Motion under 28 U.S.C. § 2255 was placed in the prison mailing system on (month, date, year).

Executed (signed) on _____ (date).

Signature of Movant

If the person signing is not movant, state relationship to movant and explain why movant is not signing this motion.

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Plaintiff(s),

vs.

Case No.

Defendant(s).

Memorandum of Law

In Support of or In Opposition to

(Check "In Support of" if you are filing the motion and "In Opposition to" if you are opposing the Motion that was filed.)

(Name of Motion filed)

Provide below an explanation of why the Motion should be granted or denied. Your explanation should be provided in consecutively numbered paragraphs. If you run out of space, you may attach additional sheets of paper and continue to number your paragraphs.

1.

2.

Signed this day of

Signature of Party _____

Mailing Address

Telephone Number

Note: All parties filing the Memorandum of Law must date and sign the Memorandum and provide his/her mailing address and telephone number. Attach additional sheets of paper as necessary. The Memorandum of Law must be served on each party, together with the Notice of Hearing, Motion and other accompanying documents, if any.

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

**LR 7.1(f) & LR 72.2(d)
CERTIFICATE OF COMPLIANCE**

Plaintiff(s)

v.

Case Number:

Defendant(s)

I, *[name of filer]*, certify that the

Memorandum titled: _____
complies with Local Rule 7.1(f).

or

Objection or Response to the Magistrate Judge's Ruling complies with Local Rule 72.2(d).

I further certify that, in preparation of the above document, I:

Used the following word processing program and version: _____
and that this word processing program has been applied specifically to include all text,
including headings, footnotes, and quotations in the following word count.

or

Counted the words in the document.

I further certify that the above document contains the following number of words: _____

Date: _____

s/ _____
Name

Address 1

Address 2

Phone

Email

Bar ID

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Plaintiff(s),

**CERTIFICATE OF
SERVICE FOR
SERVICE BY MAIL**

vs.

Case No.

Defendant(s).

(Enter the full name(s) of ALL plaintiffs
and defendants in this lawsuit. Please
attach additional pages, if necessary.)

I hereby certify that on _____ (mm/dd/yyyy), I caused the following
documents: *[List the documents you are going to file and serve.]*

[Check the box, below, that applies to how you served the above documents.]

- to be filed electronically with the Clerk of Court through ECF and/or
- that I caused a copy of the foregoing documents (and the notice of electronic filing, if filed electronically) to be mailed by first class mail, postage paid, to the following: *[List names and addresses of those served by U.S. Mail.]*

Date:

s/

Signature of filing party

Filer's Typed Name

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Plaintiff(s),

vs.

Case No.

Defendant(s).

NOTICE OF APPEAL

Pursuant to Fed. R. App. P. 3(c)(1) and 4(a), notice is hereby given that the following parties
(provide the names of all parties who are filing an appeal):

in the above-named case appeal to the United States Court of Appeals for the Eighth Circuit.

The above-named parties appeal from the _____ (indicate whether the
appeal is from a *judgment* or an *order* of the District Court) of the U.S. District Court for the
District of Minnesota that was entered on _____ (date judgment or order was
entered) that:

(If the appeal is from an *order*, provide brief explanation, below, of the District Court's decision in the order. If you are appealing only a portion of the judgment or order, indicate below which part of the judgment or order you are appealing).

Signed this day of

Signature of Party _____

Mailing Address

Telephone Number

Note: All parties filing the appeal must date and sign the Notice of Appeal and provide his/her mailing address and telephone number, EXCEPT that a signer of a pro se notice of appeal may sign for his/her spouse and minor children if they are parties to the case. Fed. R. App. P. 3(c)(2). Attach additional sheets of paper as necessary.