



How to File a Post-Conviction Motion

For persons in federal custody seeking post-conviction relief from a federal court judgment

Motions under 28 U.S.C. § 2255 can be made, after a direct appeal has been decided, by federal prisoners challenging a conviction or sentence caused by a judgment in a federal criminal case. The Court has a Pro Se Guidebook for Motions Filed Under 28 U.S.C. § 2255 that you may consult for additional information. You may obtain a copy of this Guide by contacting the Clerk's Office at the contact information provided below.

For persons in custody under other circumstances:

If you are in custody pursuant to a state court judgment and wish to challenge the validity of the judgment that caused you to be confined, you should file a habeas petition under 28 U.S.C. § 2254. The Court has a Pro Se Guidebook for Cases Filed Under 28 U.S.C. § 2254 that you may consult for additional information. If you are a state pre-trial detainee challenging your custody, or a federal prisoner or other person in federal custody challenging the fact of or duration of your confinement not directly caused by a judgment in a federal criminal case, you should file a petition under 28 U.S.C. § 2241. The Court also has an information sheet and a Pro Se Guidebook for Cases Filed Under 28 U.S.C. § 2241 that you may consult for additional information.

How do I file a § 2255 motion?

To file a motion under 28 U.S.C. § 2255, you must submit a completed Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody (AO243) form to the following address:

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

(612) 664-5000

Copies of this form and others you may need may be obtained by contacting the Clerk's Office at the above address and phone number.

There is no filing fee to file a § 2255 motion.



What happens after the Court receives my documents?

A district court judge, usually the judge who presided over your criminal case, will conduct an initial review of your case. The judge will determine whether the motion must be dismissed or whether the motion may proceed. See Rule 4 of the Rules Governing § 2255 Proceedings in the U.S. District Courts. It may take the Court several weeks to conduct the initial review.

Do I need to serve the motion on the defendants?

No. The copy of your motion will be served upon the government if the Court authorizes your motion to proceed.

May I amend my motion?

Yes, but Court permission is required under certain circumstances, and the complaint must be amended by following the procedures in Federal Rule of Civil Procedure 15(a) and Local Rule 15.1.