

RULE 3.987.

MOTION FOR POSTCONVICTION RELIEF

MODEL FORM FOR USE IN MOTIONS FOR
POSTCONVICTION RELIEF PURSUANT TO
FLORIDA RULE OF CRIMINAL PROCEDURE 3.850

In the Circuit Court of the
_____ Judicial Circuit,
in and for _____
County, Florida

State of Florida,)
)
 v.) Criminal Division
)
) Case No.: _____
_____) (the original case number)
)
)
_____)

MOTION FOR POSTCONVICTION RELIEF

Instructions — Read Carefully

(1) This motion must be legibly handwritten or typewritten, signed by the defendant, and contain either the first or second oath set out at the end of this rule. Any false statement of a material fact may serve as the basis for prosecution and conviction for perjury. All questions must be answered concisely in the proper space on the form.

(2) Additional pages are not permitted except with respect to the facts that you rely upon to support your grounds for relief. No citation of authorities need be furnished. If briefs or arguments are submitted in support of your legal claims (as opposed to your factual claims), they should be submitted in the form of a separate memorandum of law. This memorandum should have the same caption as this motion.

(3) No filing fee is required when submitting a motion for postconviction relief.

(4) Only the judgment of one case may be challenged in a single motion for postconviction relief. If you seek to challenge judgments entered in different cases, or different courts, you must file separate motions as to each such case. The single exception to this is if you are challenging the judgments in the different cases that were consolidated for trial. In this event, show each case number involved in the caption.

(5) Your attention is directed to the fact that you must include all grounds for relief, and all facts that support such grounds, in the motion you file seeking relief from any judgment of conviction.

(6) When the motion is fully completed, the original must be mailed to the clerk of the court whose address is _____ (county where sentence was imposed) County Courthouse, _____ (address of clerk), Florida.

MOTION

1. Name and location of the court that entered the judgment of conviction under attack: _____

2. Date of judgment of conviction: _____

3. Length of sentence: _____

4. Nature of offense(s) involved (all counts): _____

5. What was your plea? (check only one)

(a) Not guilty _____

(b) Guilty _____

(c) Nolo contendere _____

(d) Not guilty by reason of insanity _____

If you entered one plea to one count and a different plea to another count, give details: _____

6. Kind of trial: (check only one)

(a) Jury _____

(b) Judge only without jury _____

7. Did you testify at the trial or at any pretrial hearing?

Yes _____ No _____

If yes, list each such occasion: _____

8. Did you appeal from the judgment of conviction?

Yes _____ No _____

9. If you did appeal, answer the following:

(a) Name of court: _____

(b) Result: _____

(c) Date of result: _____

(d) Citation (if known): _____

10. Other than a direct appeal from the judgment of conviction and sentence,

have you previously filed any petitions, applications, motions, etc., with respect to this judgment in this court?

Yes _____ No _____

11. If your answer to number 10 was “yes,” give the following information (applies only to proceedings in this court):

(a) (1) Nature of the proceeding: _____

(2) Grounds raised: _____

(3) Did you receive an evidentiary hearing on your petition, application, motion, etc.?

Yes _____ No _____

(4) Result: _____

(5) Date of result: _____

(b) As to any second petition, application, motion, etc., give the same information:

(1) Nature of the proceeding: _____

(2) Grounds raised: _____

(3) Did you receive an evidentiary hearing on your petition, application, motion, etc.?

Yes _____ No _____

(4) Result: _____

(5) Date of result: _____

12. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, motions, etc., with respect to this judgment in any other court?

Yes _____ No _____

13. If your answer to number 12 was “yes,” give the following information:

(a) (1) Name of court: _____

(2) Nature of the proceeding: _____

(3) Grounds raised: _____

(4) Did you receive an evidentiary hearing on your petition, application, motion, etc.?

Yes _____ No _____

(5) Result: _____

(6) Date of result: _____

(b) As to any second petition, application, motion, etc., give the same information:

(1) Name of court: _____

(2) Nature of the proceeding: _____

(3) Grounds raised: _____

(4) Did you receive an evidentiary hearing on your petition, application, motion, etc.?

Yes _____ No _____

(5) Result: _____

(6) Date of result: _____

(c) As to any third petition, application, motion, etc., give the same information:

(1) Name of court: _____

(2) Nature of the proceeding: _____

(3) Grounds raised: _____

(4) Did you receive an evidentiary hearing on your petition, application, motion, etc.?

Yes _____ No _____

(5) Result: _____

(6) Date of result: _____

14. State concisely every ground on which you claim that the judgment or sentence is unlawful. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and the facts supporting them.

For your information, the following is a list of the most frequently raised grounds for postconviction relief. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds that you may have other than those listed. However, you should raise in this motion all available grounds (relating to this conviction) on which you base your allegations that your conviction or sentence is unlawful.

DO NOT CHECK ANY OF THESE LISTED GROUNDS. If you select one or more of these grounds for relief, you must allege facts. The motion will not be accepted by the court if you merely check (a) through (i).

(a) Conviction obtained by plea of guilty or nolo contendere that was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.

(b) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.

(c) Conviction obtained by a violation of the protection against double jeopardy.

(d) Denial of effective assistance of counsel.

(e) Denial of right of appeal.

(f) Lack of jurisdiction of the court to enter the judgment or impose sentence (such as an unconstitutional statute).

(g) Sentence in excess of the maximum authorized by law.

(h) Newly discovered evidence.

(i) Changes in the law that would be retroactive.

A. Ground 1: _____

Supporting FACTS (tell your story briefly without citing cases or law):

B. Ground 2: _____

Supporting FACTS (tell your story briefly without citing cases or law):

C. Ground 3: _____

Supporting FACTS (tell your story briefly without citing cases or law):

D. Ground 4: _____

Supporting FACTS (tell your story briefly without citing cases or law):

15. If any of the grounds listed in 14 A, B, C, and D were not previously presented on your direct appeal, state briefly what grounds were not so presented and give your reasons they were not so presented:

16. Do you have any petition, application, appeal, motion, etc., now pending in any court, either state or federal, as to the judgment under attack?

Yes _____ No _____

17. If your answer to number 16 was "yes," give the following information:

(a) Name of court: _____

(b) Nature of the proceeding: _____

(c) Grounds raised: _____

(d) Status of the proceedings: _____

18. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein.

(a) At preliminary hearing: _____

(b) At arraignment and plea: _____

(c) At trial: _____

(d) At sentencing: _____

(e) On appeal: _____

(f) In any postconviction proceeding: _____

(g) On appeal from any adverse ruling in a postconviction proceeding:

WHEREFORE, movant requests that the court grant all relief to which the movant may be entitled in this proceeding, including but not limited to (here list the nature of the relief sought):

1. _____

2. Such other and further relief as the court deems just and proper.

OATH

(Complete 1 or 2)

1. Notarized Oath.

STATE OF FLORIDA)
)
COUNTY OF _____)

Before me, the undersigned authority, this day personally appeared _____, who first being duly sworn, says that he or she is the defendant in the above-styled cause, that he or she has read the foregoing motion for postconviction relief and has personal knowledge of the facts and matters therein set forth and alleged and that each and all of these facts and matters are true and correct.

(your signature)

SWORN AND SUBSCRIBED TO before me on(date).....

NOTARY PUBLIC or other person
authorized to administer an oath
(print, type, or stamp commissioned
name of notary public)

Personally known _____ or produced identification _____
Type of Identification produced _____

2. Unnotarized Oath.

Under penalties of perjury, I declare that I have read the foregoing motion and that the facts stated in it are true.

(your signature)