# Motion to Vacate, Set Aside or Correct the Judgment or Sentence

IN THE _____ JUDICIAL CIRCUIT COURT, _____, MISSOURI

| Judge or Division: | **Case Number:** | |
|---|---|---|
| Full Name of Movant:<br><br>vs.<br><br>State of Missouri, Respondent | Movant's Address: | (Date File Stamp) |

**Instructions - Read Carefully**

In order for this motion to receive consideration by the Circuit Court, it shall be in writing (legibly handwritten or typewritten), signed by the movant, and it shall set forth in concise form the answers to each applicable question. If necessary, movant may furnish an answer to a particular question on the reverse side of the page or an additional blank page. Movant shall make it clear to which question any such continued answer refers.

This motion must be filed in the Circuit Court which imposed sentence.

The movant is required to include in this motion every claim known to him for vacating, setting aside or correcting the conviction and sentence or it will be waived or abandoned. Be sure to include every claim.

Movant should exercise care to assure that all answers are true and correct.

If the movant is taken in forma pauperis, it shall include an affidavit setting forth information that establishes that movant will be unable to pay costs of the proceedings. When the motion is completed, the original and two copies shall be mailed to the Clerk of the Circuit Court from which to movant was sentenced.

1. Place of detention:

   _____

2. Name and location of court which imposed sentence:

   _____

3. The case number and the offense or offenses for which sentence was imposed:

   _____

   _____

4. (a) The date upon which sentence was imposed and the terms of the sentence:

   _____

   (b) The date upon which you were delivered to the custody of the department of corrections to serve the sentence you wish to challenge:

   _____

5. Check whether a finding of guilty was made:

   (a) After a plea of guilty ☐ (b) After a plea of not guilty ☐

6. Did you appeal from the judgment of conviction? _____

7. If you answered "yes" to (6), list

   (a) the name of the court to which you appealed:

   _____

   (b) the result in such court and the date of such result:

   _____

   _____

   (c) the date the appellate court's mandate issued:

   _____

8. State concisely all the claims known to you for vacating, setting aside or correcting your conviction and sentence:

   (a) _____

   _____

   (b) _____

   _____

   (c) _____

9. State concisely and in the same order the facts supporting each of the claims set out in (8), and the names and addresses of the witnesses or other evidence upon which you intend to rely to prove such facts:

   (a) _____

   _____

   _____

   (b) _____

   _____

   _____

   (c) _____

   _____

   _____

10. Prior to this motion have you filed with respect to the conviction:

(a) Any motion to vacate judgment under Missouri Supreme Court Rule 24.035, 27.26 or 29.15?

_____

(b) Any petitions in state or federal courts for habeas corpus? _____

(c) Any petitions in the United States Supreme Court for certiorari? _____

(d) Any other petitions, motions or applications in this or any other court? _____

11. If you answered "yes" to any part of (10), list with respect to each petition, motion or application

(a) the specific nature thereof:

i. _____

ii. _____

iii _____

(b) the name and location of the court in which each was filed:

i. _____

ii. _____

iii. _____

(c) the disposition thereof and the date of such disposition:

i. _____

ii. _____

iii. _____

(d) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. _____

ii. _____

iii. _____

12. Has any claim set forth in (8) been previously presented to this or any other court, state or federal, in any petition, motion or application that you have filed?

_____

13. If you answered “yes” to (12), identify

(a) the claims that have been previously presented:

i. _____

ii. _____

iii. _____

(b) the proceedings in which each claim was raised:

i. _____

ii. _____

iii. _____

14. If you have filed prior proceedings in any state or federal court involving this same sentence but did not raise therein one or more of the claims you now list in (8), state which were not raised in the earlier proceedings and why they were not raised in those proceedings:

(a) _____

(b) _____

(c) _____

15. Were you represented by an attorney at any time during the course of

(a) your preliminary hearing? _____

(b) your arraignment and plea? _____

(c) your trial, if any? _____

(d) your sentencing? _____

(e) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____

(f) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____

16. If you answered “yes” to one or more of part (15), list

(a) the name and address of each attorney who represented you

i. _____

ii. _____

iii. _____

(b) the proceedings at which each such attorney represented you

i. _____

ii. _____

iii. _____

17. Are you now under sentence from any other court that you have not challenged? _____

18. If you are seeking leave to proceed in forma pauperis, have you completed the sworn affidavit setting forth the required information (see instructions, page 1 of this form)? _____

I, _____, movant in this case, state by subscribing to this petition; that I know the contents thereof; that the above information is, to the best of my knowledge, true and correct; that I have listed every claim known to me for vacating, setting aside or correcting the conviction and sentence attached in this motion; and that I understand that I waive any claim for relief known to me that I have not listed in this motion.

_____
Signature of Movant

**State of _____ )**
**)**
**County _____ )**

# Forma Pauperis Affidavit

(See instructions page 1 of this form)

_____

_____

_____

_____

_____

_____

_____

_____

_____

Affiant, being first duly sworn, deposes and says that I have subscribed to the foregoing affidavit; that I know the contents thereof; and that the matters therein set forth are true.

_____
Signature of Affiant

Subscribed and sworn to before me this _____ (date).

My commission expires: _____ (date).

_____
Notary Public