

9-703. Petition for post-sentence relief.

[For use with District Court Criminal Rule 5-803 NMRA]

STATE OF NEW MEXICO
COUNTY OF _____
IN THE DISTRICT COURT

For Official Use Only
No. _____
(To be supplied by the clerk of the court)

_____,
(Your full name)
Petitioner,

v.

STATE OF NEW MEXICO,

Respondent.

Instructions — Read Carefully

Make sure that all information provided in this form is true and correct. Make sure that all necessary documents are attached, or explain why the documents are not being included. If you are seeking free process, complete Form 9-403 NMRA.

Finally, you must complete the certificate of service and mail or otherwise serve copies of this petition on the respondent and the district attorney in the county in which the petition is filed. You must file the original petition and one copy with the Clerk of the District Court. You should keep a copy for your own records.

PETITION FOR POST-SENTENCE RELIEF¹

1. _____ (name of petitioner) completed a sentence of _____ (incarceration, probation, parole) on _____ (date sentence was completed).

2. This petition
 seeks to vacate, set aside or correct an illegal sentence or order of confinement (i.e., ineffective assistance of counsel, illegal search and seizure, involuntary confession, or other matters relating to the trial or sentence the petitioner received).

(other) _____.

3. State concisely the facts upon which the petitioner bases the claim:

4. State concisely the grounds and law, or other legal authorities on which the petitioner bases the claim:

5. Have the grounds being raised in this petition been raised previously in your direct appeal? If so, explain the result. If not, explain why not:

6. Have the grounds raised in this petition been raised previously in a petition for a writ of habeas corpus? If so, explain the result. If not explain why not:

7. Briefly describe the relief requested:

8. State the nature of the court proceeding resulting in the sentence (*i.e.*, *criminal prosecution, civil commitment, etc.*), including:

- (a) case name:
- (b) docket number:
- (c) name of judge:
- (d) name and location of the court in which the proceeding was held:

9. State the date of the final judgment or order for your sentence:

10. Attach a copy of the judgment, order or decree. If not, describe your sentence.

11. Was the conviction the result of:

- _____ Guilty plea
- _____ No Contest plea (*nolo contendere*)
- _____ Finding of guilty by judge or jury

12. Was the petitioner represented by an attorney during the proceedings resulting in the sentence?

- _____ Yes
- _____ No

13. If you answered "yes" to (12), list the name and address of each attorney who represented the petitioner:

14. Did you appeal your conviction?

- _____ Yes (*Go to 15*)
- _____ No (*Go to 16*)

15. If you answered "yes" to (14), list:

- (a) The name of each court to which an appeal was taken:

- (b) The case name and docket number for each appeal:

— (c) The date each appeal was filed and decided (*attach a copy of each opinion or order*):

—

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— (d) A summary of the grounds upon which each appeal was based:

—

—

— (e) The result of each appeal:

—

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— (f) The name and address of the attorney on appeal:

—

—

— 16. If you answered “no” to (14), state the reasons for not appealing:

—

— 17. Apart from any appeals listed in (15), have any other post conviction applications, petitions or motions, been filed with regard to this sentence?

_____ Yes (*Go to 18*)

_____ No (*Go to 19*)

18. If you answered “yes” to (15), list with respect to each such petition or motion:

(a) The type of proceeding:

—

— (b) The name and date of each case:

— (c) the docket number:

— (d) the court, the administrative agency, or institutional grievance committee from which relief was sought:

— (e) the result of each proceeding (*attach a copy of each decision*):

— (f) The issues raised in each proceeding:

— (g) State whether a hearing was held in connection with each of these proceedings:

— (h) State whether the petitioner was represented by an attorney in each proceeding and, if so, the attorney's name and address:

— 19. Do you seek the appointment of counsel to represent you?²
_____ Yes
_____ No

VERIFICATION

STATE OF NEW MEXICO
COUNTY OF _____

I, the undersigned, being first duly sworn upon my oath, state that I am the petitioner in this action. I have read the foregoing petition and know and understand its contents, and the information contained herein is true and correct to the best of my knowledge,

information and belief. On _____, _____ (*date*), I deposited this petition in the mail, properly addressed with any necessary postage prepaid, for forwarding to the district court at the following address:

_____ Court (*name of court*)
_____ (*city*), New Mexico, _____ (*zip code*).

(*Signature*)

(*Address*)

SUBSCRIBED AND SWORN TO before me this _____ day of _____, _____, by

(Name of petitioner)

Notary Public

My Commission Expires:

CERTIFICATE OF SERVICE

I hereby certify that true copies of the foregoing petition were served upon the district attorney in the county in which the petition is filed by

_____ (describe manner of service), this _____ day of _____, _____.

(Signature of petitioner)

USE NOTES

1. This form should only be used by individuals who have completed their sentence. Individuals still in custody, on probation, or on parole should use Form 9-701 NMRA.

2. The Public Defender Department cannot be appointed to represent a petitioner in a Rule 5-803 proceeding. However, the district court retains the inherent authority to appoint counsel from among the private bar or pro bono legal service providers who have licensed counsel on staff. See Committee Commentary, Rule 5-803 NMRA.

[Adopted by Supreme Court Order No. 14-8300-014, effective for all cases filed on or after December 31, 2014.]