

PETITION FOR A WRIT OF HABEAS CORPUS



Supreme Court of Guam
120 West O'Brien Dr.
Hagåtña, GU 96910

Superior Court of Guam
120 West O'Brien Dr.
Hagåtña, GU 96910

This page contains instructions only—do not file.

How to Petition for a Writ of Habeas Corpus

What is a Petition for a Writ of Habeas Corpus?

- This petition is a legal request asking a court to review whether detention or custody is lawful.
- You can use this petition if you believe you are being held without proper legal authority or that your constitutional rights have been or are currently being violated.

Before you start

- Read these instructions and the entire petition before responding to any questions.
- You are the petitioner (the person filing). The respondent is usually the person or agency holding you in custody (such as the warden or Director of Corrections).
 - If you are in the custody of the Government of Guam, the Attorney General must receive a copy of your petition. You can mail it to the Attorney General at the address below.

See 8 GCA § 135.14.

Attorney General of Guam
Office of the Attorney General
134 W. Soledad Ave., Ste. 412
Hagåtña, GU 96910

- This petition must be clearly handwritten or typed. All answers must be true and correct. Making a false statement is against the law.
- Fill in every question that applies to you. If you do not know the answer to a question, it is okay to leave it blank. If you need more space, include “continued on additional page” next to the question. On the additional page, include the question number and finish your response. Include your name on each page. Attach any additional pages to your petition.

Cover page: Initial information

- Choose a court. You must almost always file first in the Superior Court before filing in the Supreme Court. If you have an appeal pending before the Supreme Court, it may be appropriate to file your petition there first. Otherwise, the Supreme Court will likely dismiss your petition and instruct you to file first in the Superior Court. If the Superior Court has already denied your petition, that is normally when you would file your petition in the Supreme Court.
 - If you are in the custody of the federal government—for example, serving a sentence for a conviction in federal court or being held in immigration detention—neither the Superior Court nor Supreme Court can order your release. The District Court of Guam has its own forms and requirements.
- Fill in the information about the petitioner (you) and the respondent (usually the person or agency holding you in custody).

Step 1: Language help

Need an interpreter? Check the box and fill in the language you speak. If you need language assistance to fill out this form, contact the court. Court navigators can help you.

Step 2: The reason for your petition

Check the boxes that apply to your situation. If the reason is not listed, check the box next to “Other” and explain what the reason is.

Step 3: Location and status

Check the box for your current location or supervision status. If you check “Other” or “something else,” include the name and address of your location. If you check “something else,” you should also explain how you are being held in custody.

Step 4: Reason for custody or supervised release

Fill in all items that apply to your situation. For item A, write the specific crime(s) or reason for commitment. For item B, write the statute (for example: “9 GCA § 25.15”). Try to fill in as much information as you can. It’s okay to leave an item blank if you do not know the answer.

Step 5: Last plea (if applicable)

If this question applies to you, check the box next to the last plea you entered. If you pleaded not guilty, check the box next to the kind of trial you had or explain more in the “Other” section.

Step 6: Claim(s) for relief

This is the most important section. List and attach any documents that support your claim. If you have more than one claim, make copies of pages 4 and 5 of the petition and number your claims in order. For example, “Claim #2.” Include your name on each page. Attach any additional pages to your petition.

- a. Your claim: Write a brief statement of your legal claim.
 - Example 1: “The trial court imposed an illegal sentence.”
 - Example 2: “My attorney did not represent me effectively.”
- b. Supporting facts: Tell your story briefly without citing cases or law. If you are challenging the legality of your conviction, describe the facts on which your conviction is based.
 - You must state specific facts, not conclusions. A fact says who did what, when, and where. A conclusion gives an opinion without details. Failure to allege sufficient facts will result in the denial of your petition. *See In re Swain*, 34 Cal.2d 300, 304 (1949).
- c. Supporting documents: Attach declarations, relevant records, transcripts, or other documents supporting your claim. *See People v. Duvall*, 9 Cal.4th 464, 474 (1995).
- d. Supporting cases, rules, or other authority. This is optional. Briefly discuss, or list by name and citation, the cases or other authorities that you think are relevant to your claim.

Step 7: Appeal history

If you appealed from your conviction, sentence, or commitment, answer Question 7 for each appeal. If you appealed more than once, make a copy of Page 6 for each appeal. Do not include other habeas petitions here—only direct appeals. Number your appeals in order. For example, “Appeal #2.” Include your name on each page. Attach any additional pages to your petition.

Step 8: Claims not raised on appeal

If your petition makes a new claim, explain why you did not raise this claim on appeal. Be specific.

- Example 1: “I discovered new evidence after my appeal.”
- Example 2: “My attorney did not raise this issue.”

Step 9: Administrative review (if applicable)

For claims about conditions, discipline, or credits, you usually must complete all available internal complaint or grievance steps before filing in court. Explain the steps you took or why you could

not. Check whether you sought the highest level of review available. Attach copies of grievances and any responses if you have them. If this question does not apply to you, leave it blank.

Step 10: Other petitions or motions filed

If you filed more than one petition, make copies of Page 8 and number the petitions or motions in order. Do not count your direct appeal.

Step 11: Delay in filing

Explain why you did not make your claims sooner, such as new information or evidence.

Step 12: Current attorney or lawyer

If you have an attorney or lawyer, write their name and address.

Step 13: Other pending matters

If you have other cases currently in court, explain what they are and which court they are in.

Step 14: If you are filing in the Supreme Court, explain why

If you did not file a petition in the Superior Court first and you are filing your petition in the Supreme Court, explain why the Supreme Court should review your petition.

Step 15: Verification

Write today's date and sign. If you are completing the petition for someone else, you must explain your relationship to the petitioner and why they cannot sign.

What happens next

1. File your form at the Clerk's Office. Depending on the court, that will be either:
 - Supreme Court, 120 West O'Brien Dr., Hagåtña, GU 96910 — 671-475-3180
 - Superior Court, 120 West O'Brien Dr., Hagåtña, GU 96910 — 671-475-3331
2. There is a filing fee for a Petition for Writ of Habeas Corpus. If you cannot pay, file the Application to Waive Court Costs and Fees with your petition.

Important reminders

- Be honest. You are making allegations and statements under penalty of perjury.
- Keep copies of everything you file.
- Attach supporting documents to your petition.
- Notify the Clerk of Court in writing if your address changes after you file your petition.

Choose a court:

☐ Supreme Court of Guam

☐ Superior Court of Guam

Case No.: _____
(for court use only)

Petition for Writ of Habeas Corpus

v.

Petitioner (Your name)

Respondent

Address

Address

DOC or ID Number (if applicable)

1. Request an interpreter

☐ I need a court interpreter for all court hearings about this request in this language:

2. This petition concerns:

Check all that apply.

- ☐ Conviction
- ☐ Sentence
- ☐ Parole
- ☐ Credits
- ☐ Jail or prison conditions
- ☐ Prison discipline
- ☐ Bail determination (8 GCA § 135.44)
- ☐ Other (specify): _____

3. Tell us about your location and status

If you are incarcerated, where are you incarcerated?

- ☐ Guam Adult Correctional Facility
Physical address: 1 Mashburn Ln., Mangilao, GU 96913
Mailing address: P.O. Box 3236, Hagåtña, GU 96932
 - ☐ Hagåtña Detention Facility, 203 Aspinall Ave., Hagåtña, GU 96910
 - ☐ Department of Youth Affairs, 169 San Isidro Dr., Mangilao, GU 96913
 - ☐ Other (name and address): _____
-
-

If you are **not** incarcerated, are you on:

- ☐ Probation
- ☐ Parole
- ☐ Mandatory supervision
- ☐ Post-release community supervision
- ☐ Something else (explain): _____

4. Why are you in custody or on supervised release?

- ☐ Criminal conviction
- ☐ Civil commitment (being held in a facility for mental health or other noncriminal reasons).

Answer items A through H as best as you can.

A. State the reason for civil commitment or, if a criminal conviction, state the nature of the offense and enhancements (extra penalties added to your sentence, for example, “with the use of a deadly weapon”).

B. Guam Code sections: _____

C. Case number: _____

D. Date convicted or committed: _____

E. Date sentenced or date of judgment: _____

F. Length of sentence: _____

G. When do you expect to be released? _____

H. Were you represented by counsel?

☐ Yes, Attorney’s name: _____

Attorney’s address: _____

☐ No

5. If applicable, what was the last plea you entered?

☐ Not guilty

→ What kind of trial did you have?

☐ Jury

☐ Judge without a jury

☐ Awaiting trial

☐ Other: _____

☐ Guilty

☐ No contest (nolo contendere)

☐ Other: _____

6. Claim #_____

If you have more than one claim, make a copy of pages 4 and 5, and number each claim in order.

a. Your claim: _____

This image shows a blank sheet of white paper with horizontal blue ruling lines, typical of notebook paper. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

b. Supporting facts: _____

[illegible]

[illegible]

c. Supporting documents: _____

[illegible]

d. Supporting cases, rules, or other authority (optional): _____

[illegible]

7. Did you appeal from the conviction, sentence, or commitment?

Do not include any other petitions for habeas corpus.

- ☐ No (continue to Question 8)
- ☐ Yes (for each instance, make a copy of this page and number the appeals in order)

Appeal # _____

→ Date of decision: _____

→ Result: _____

→ Case number and citation of opinion (if known): _____

→ Issues raised:

1. _____

2. _____

3. _____

4. _____

5. _____

→ Were you represented by counsel on appeal?

☐ No

☐ Yes, Attorney's name: _____

Attorney's address: _____

8. Does your petition make a claim that you did not make on appeal?

☐ No (continue to Question 9)

☐ Yes

→ Explain why you did not make this claim on appeal. See *In re Dixon*, 41 Cal.2d 756, 759 (1953): _____

9. Administrative review (if applicable)

- a. You usually must go through all available internal complaint or grievance steps before filing in court. If your petition concerns conditions of confinement or other claims that have administrative remedies, failure to exhaust administrative remedies may result in the denial of your petition, even if your other reasons are valid. See *In re Dexter*, 25 Cal.3d 921, 925 (1979). Explain what administrative review you sought or why you did not seek such review:

- b. Did you seek the highest level of administrative review available?

☐ Yes

☐ No

- c. If applicable, attach documents that show you have exhausted your administrative remedies. See *People v. Duvall*, 9 Cal.4th 464, 474 (1995).

10. Have you filed any other petitions or motions about your claim in any court?

Do not include a direct appeal. See *In re Clark*, 5 Cal.4th 750, 767–769 (1993) and *In re Miller*, 17 Cal.2d 734, 735 (1941).

☐ No (continue to Question 11)

☐ Yes (if more than one, make copies of this page and number the petitions/motions in order)

#_____ (number, e.g., “First”) other petition, application, or motion

a. Type of proceeding (for example, “habeas corpus petition”): _____

b. Court:

☐ Supreme Court of Guam ☐ Superior Court of Guam ☐ District Court of Guam

☐ Other: _____

c. Result (attach order or explain why it is unavailable): _____

d. Date of decision: _____

e. Case number or citation of opinion, if known: _____

f. All issues raised:

(1) _____

(2) _____

(3) _____

g. If the court held a hearing, state the **date, nature, and result** of the hearing.

11. Explain any delay in filing the claims you make now.

Explain any delay in discovering or presenting the claims for relief that you raise now in this petition. See *In re Robbins*, 18 Cal.4th 770, 780 (1998).

12. Are you represented by an attorney or lawyer on this petition?

☐ No (continue to Question 13)

☐ Yes

Attorney's name: _____

Attorney's address: _____

13. Do you have any pending petition, appeal, or other matter in any court?

☐ No (continue to Question 14)

☐ Yes (explain): _____

14. Are you filing this petition in the Supreme Court of Guam?

☐ No (continue to Question 15)

☐ Yes

If this petition could have been made first in the Superior Court, you must explain why you are filing in the Supreme Court without first filing in the Superior Court.

15. Sign your petition

I am the petitioner in this action. I declare under penalty of perjury under the laws of Guam that the foregoing allegations and statements are true and correct, except as to matters that are stated on my information and belief, and as to those matters, I believe them to be true.

Date: _____ Signature: _____

(Signature of the Petitioner)

If you are signing on behalf of the petitioner under 8 GCA § 135.12:

- What is your relation to the petitioner? _____
 - Why does the petitioner need you to sign this form for them? _____
-

I, _____, (your name) declare under penalty of perjury under the laws of Guam that the foregoing allegations and statements are true and correct regarding _____'s (petitioner's name) petition, except as to matters that are stated on information and belief, and as to those matters, I believe them to be true.

Date: _____ Signature: _____

(Signature of person signing on behalf of the Petitioner)