HOW TO BEGIN A SECTION 2255 ACTION

For prisoners who are in federal custody pursuant to a federal court judgment

If you are in a federal prison, or otherwise "in custody" as a result of a conviction in a <u>federal</u> court, and you want the federal district court to set aside your conviction or sentence because you think your conviction or sentence violates the Constitution or laws of the United States, you may file a motion to vacate, set aside, or correct sentence under 28 U.S.C. § 2255. The Court has prepared a Handbook for Pro Se Actions Filed Under Section 2255. You may request a copy of this Handbook by contacting the Clerk's Office.

For persons who are in custody under other circumstances

If you are in jail or prison, or otherwise "in custody" as a result of a conviction in a <u>state</u> court, and you want the federal district court to set aside your state court conviction or sentence because you think your conviction or sentence violates the Constitution or laws of the United States, you may file a petition for writ of habeas corpus under 28 U.S.C. § 2254 The Court has prepared a Handbook for Pro Se Actions Filed Under Section 2254. You may request a copy of this Handbook by contacting the Clerk's Office.

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 may file a petition under 28 U.S.C. § 2241. Ask the Court to send you an Information Sheet and Pro Se Handbook for Actions Filed Under 28 U.S.C. § 2241.

How do I begin a Section 2255 action?

To begin a Section 2255 habeas corpus action in the Middle District of Tennessee, you must do the following:

- Complete a motion under 28 U.S.C. § 2255 to vacate, set aside, or correct sentence by a person in federal custody; and
- File this document with the Clerk's Office.

You can obtain any needed forms by contacting the Clerk's Office using the contact information provided at the end of this document.

Is there a fee for filing a Section 2255 motion?

No. This is because, in the Middle District of Tennessee, a Section 2255 motion is filed in an existing criminal case and does not initiate a new case.

What happens after the Court receives my documents?

Your case will automatically be assigned to the judge who sentenced you. If that judge is not available, the Clerk will assign the motion using the Court's assignment procedure. See Rule 4(a), Rules Governing Section 2255 Proceedings.

Next, the judge will conduct an initial review of your petition. This review is required by Rule 4 of the Rules Governing Section 2255 Proceedings in the United States District Courts. The Court will either dismiss your petition or allow you to proceed. You will be notified of the Court's decision by mail.

Do I need to serve a copy of my motion?

No. You are not required to serve a copy of your Section 2255 motion. If appropriate, the Court will issue an order directing the Clerk to serve a copy of the motion on the United States Attorney in the district. See Rule 3(b), Rules Governing Section 2255 Proceedings.

What if I want to change my motion after I file it?

The Court may allow you to amend, or change, your motion. Under certain circumstances, you must obtain permission from the Court before amending your Section 2255 motion. Read Federal Rule of Civil Procedure 15(a) and Local Rule 15.01 for more information.

How do I contact the Clerk's Office?

Clerk's Office
United States District Court, Middle District of Tennessee
801 Broadway
Nashville, TN 37203

You can call the Clerk's Office at (615) 736-5498. Select Option 1 for case information. Select Option 0 to speak to the operator.