

Federal Petition for Writ of Habeas Corpus Materials

For “appealing” a state court conviction
to the federal court
after losing in the California Court of Appeal
and the California Supreme Court

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Legal Services for Prisoners with Children
4400 Market Street
Oakland, CA 94608
(415) 255-7036
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Updated February 2019

UNITED STATES DISTRICT COURT

for the

_____ District of _____

Plaintiff/Petitioner

v.

Defendant/Respondent

)
)
)
)
)

Civil Action No.

APPLICATION TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING FEES OR COSTS (Short Form)

I am a plaintiff or petitioner in this case and declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief requested.

In support of this application, I answer the following questions under penalty of perjury:

1. *If incarcerated.* I am being held at: _____.

If employed there, or have an account in the institution, I have attached to this document a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months for any institutional account in my name. I am also submitting a similar statement from any other institution where I was incarcerated during the last six months.

2. *If not incarcerated.* If I am employed, my employer's name and address are:

My gross pay or wages are: \$ _____, and my take-home pay or wages are: \$ _____ per
(specify pay period) _____.

3. *Other Income.* In the past 12 months, I have received income from the following sources (*check all that apply*):

- | | | |
|--|------------------------------|-----------------------------|
| (a) Business, profession, or other self-employment | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (b) Rent payments, interest, or dividends | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (c) Pension, annuity, or life insurance payments | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (d) Disability, or worker's compensation payments | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (e) Gifts, or inheritances | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (f) Any other sources | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

If you answered "Yes" to any question above, describe below or on separate pages each source of money and state the amount that you received and what you expect to receive in the future.

4. Amount of money that I have in cash or in a checking or savings account: \$ _____.

5. Any automobile, real estate, stock, bond, security, trust, jewelry, art work, or other financial instrument or thing of value that I own, including any item of value held in someone else's name *(describe the property and its approximate value)*:

6. Any housing, transportation, utilities, or loan payments, or other regular monthly expenses *(describe and provide the amount of the monthly expense)*:

7. Names (or, if under 18, initials only) of all persons who are dependent on me for support, my relationship with each person, and how much I contribute to their support:

8. Any debts or financial obligations *(describe the amounts owed and to whom they are payable)*:

Declaration: I declare under penalty of perjury that the above information is true and understand that a false statement may result in a dismissal of my claims.

Date: _____

Applicant's signature

Printed name

**Petition for Relief From a Conviction or Sentence
By a Person in State Custody**

(Petition Under 28 U.S.C. § 2254 for a Writ of Habeas Corpus)

Instructions

1. To use this form, you must be a person who is currently serving a sentence under a judgment against you in a state court. You are asking for relief from the conviction or the sentence. This form is your petition for relief.
2. You may also use this form to challenge a state judgment that imposed a sentence to be served in the future, but you must fill in the name of the state where the judgment was entered. If you want to challenge a federal judgment that imposed a sentence to be served in the future, you should file a motion under 28 U.S.C. § 2255 in the federal court that entered the judgment.
3. Make sure the form is typed or neatly written.
4. You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
5. Answer all the questions. You do not need to cite law. You may submit additional pages if necessary. If you do not fill out the form properly, you will be asked to submit additional or correct information. If you want to submit any legal arguments, you must submit them in a separate memorandum. Be aware that any such memorandum may be subject to page limits set forth in the local rules of the court where you file this petition.
6. You must pay a fee of \$5. If the fee is paid, your petition will be filed. If you cannot pay the fee, you may ask to proceed in forma pauperis (as a poor person). To do that, you must fill out the last page of this form. Also, you must submit a certificate signed by an officer at the institution where you are confined showing the amount of money that the institution is holding for you. If your account exceeds \$ _____, you must pay the filing fee.
7. In this petition, you may challenge the judgment entered by only one court. If you want to challenge a judgment entered by a different court (either in the same state or in different states), you must file a separate petition.
8. When you have completed the form, send the original and _____ copies to the Clerk of the United States District Court at this address:

Clerk, United States District Court for

Address

City, State Zip Code

If you want a file-stamped copy of the petition, you must enclose an additional copy of the petition and ask the court to file-stamp it and return it to you.

9. **CAUTION:** You must include in this petition all the grounds for relief from the conviction or sentence that you challenge. And you must state the facts that support each ground. If you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.
10. **CAPITAL CASES:** If you are under a sentence of death, you are entitled to the assistance of counsel and should request the appointment of counsel.

**PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY**

United States District Court	District:
Name (under which you were convicted):	Docket or Case No.:
Place of Confinement :	Prisoner No.:
<div style="display: flex; justify-content: space-between;"> Petitioner (include the name under which you were convicted) Respondent (authorized person having custody of petitioner) </div> <div style="text-align: center; margin-top: 5px;">v.</div>	
The Attorney General of the State of:	

PETITION

1. (a) Name and location of court that entered the judgment of conviction you are challenging:

(b) Criminal docket or case number (if you know):

2. (a) Date of the judgment of conviction (if you know):

(b) Date of sentencing:

3. Length of sentence:

4. In this case, were you convicted on more than one count or of more than one crime? ☐ Yes ☐ No

5. Identify all crimes of which you were convicted and sentenced in this case:

6. (a) What was your plea? (Check one)

- | | |
|---|---|
| <input type="checkbox"/> (1) Not guilty | <input type="checkbox"/> (3) Nolo contendere (no contest) |
| <input type="checkbox"/> (2) Guilty | <input type="checkbox"/> (4) Insanity plea |

(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to? _____

(c) If you went to trial, what kind of trial did you have? (Check one)

☐ Jury ☐ Judge only

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

☐ Yes ☐ No

8. Did you appeal from the judgment of conviction?

☐ Yes ☐ No

9. If you did appeal, answer the following:

(a) Name of court: _____

(b) Docket or case number (if you know): _____

(c) Result: _____

(d) Date of result (if you know): _____

(e) Citation to the case (if you know): _____

(f) Grounds raised: _____

(g) Did you seek further review by a higher state court? ☐ Yes ☐ No

If yes, answer the following:

(1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Result: _____

(4) Date of result (if you know): _____

(5) Citation to the case (if you know): _____

(6) Grounds raised: _____

(h) Did you file a petition for certiorari in the United States Supreme Court? ☐ Yes ☐ No

If yes, answer the following:

(1) Docket or case number (if you know): _____

(2) Result: _____

(3) Date of result (if you know): _____

(4) Citation to the case (if you know): _____

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court? ☐ Yes ☐ No

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☐ No

(7) Result: _____

(8) Date of result (if you know): _____

(b) If you filed any second petition, application, or motion, give the same information:

(1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☐ No

(7) Result: _____

(8) Date of result (if you know): _____

(c) If you filed any third petition, application, or motion, give the same information:

(1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☐ No

(7) Result: _____

(8) Date of result (if you know): _____

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: ☐ Yes ☐ No

(2) Second petition: ☐ Yes ☐ No

(3) Third petition: ☐ Yes ☐ No

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE: _____

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) If you did not exhaust your state remedies on Ground One, explain why: _____

(c) **Direct Appeal of Ground One:**

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☐ No

(2) If you did not raise this issue in your direct appeal, explain why: _____

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☐ No

(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: _____

GROUND TWO: _____

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) If you did not exhaust your state remedies on Ground Two, explain why: _____

(c) **Direct Appeal of Ground Two:**

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☐ No

(2) If you did not raise this issue in your direct appeal, explain why: _____

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☐ No

(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two : _____

GROUND THREE: _____

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) If you did not exhaust your state remedies on Ground Three, explain why: _____

(c) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☐ No

(2) If you did not raise this issue in your direct appeal, explain why: _____

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☐ No

(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three:

GROUND FOUR:

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) If you did not exhaust your state remedies on Ground Four, explain why:

(c) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

☐ Yes

☐ No

(2) If you did not raise this issue in your direct appeal, explain why:

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes

☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☐ No

(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: _____

13. Please answer these additional questions about the petition you are filing:

- (a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? ☐ Yes ☐ No

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them:

- (b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? ☐ Yes ☐ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available.

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? ☐ Yes ☐ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: _____

(b) At arraignment and plea: _____

(c) At trial: _____

(d) At sentencing: _____

(e) On appeal: _____

(f) In any post-conviction proceeding: _____

(g) On appeal from any ruling against you in a post-conviction proceeding: _____

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? ☐ Yes ☐ No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

(b) Give the date the other sentence was imposed: _____

(c) Give the length of the other sentence: _____

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? ☐ Yes ☐ No

18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.*

[illegible]

* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides in part that:

- (1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of -
- (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
 - (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
 - (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
 - (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

Therefore, petitioner asks that the Court grant the following relief: _____

or any other relief to which petitioner may be entitled.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on _____ (month, date, year).

Executed (signed) on _____ (date).

Signature of Petitioner

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition.

IN THE UNITED STATES DISTRICT COURT
FOR THE _____ DISTRICT OF CALIFORNIA

_____ Petitioner,	v.
_____, Secretary, California Department of Corrections & Rehabilitation;	
_____, Warden,	
Respondents.	

No.

**PETITIONER'S MOTION FOR
APPOINTMENT OF COUNSEL ON
PETITION FOR WRIT OF HABEAS
CORPUS AND MEMORANDUM IN
SUPPORT OF MOTION.**

TO THE UNITED STATES DISTRICT COURT FOR THE _____
DISTRICT OF CALIFORNIA:

Petitioner hereby moves the Court for an order appointing an attorney to represent him/her in this proceeding pursuant to the provisions of 18 U.S.C. section 3006A, subdivision (a)(2)(B).

Petitioner requires the assistance of an attorney to analyze and present the legal issues raised by the petition. Since petitioner is in custody, it is extremely difficult, if not impossible, for petitioner to represent him/herself in this matter. Petitioner has no legal training and limited opportunities to educate him/herself in general. Petitioner is unable to write legal argument, or to research and identify the legal authority relevant to the petition's claims. Thus, petitioner personally can provide little or no assistance to the Court in analyzing the issues raised in the petition. Should a hearing or argument be ordered, petitioner could not represent him/herself adequately in these proceedings.

Petitioner requests that counsel be appointed in this proceeding. This motion is based on this motion and memorandum, and all other documents on file in this action.

Dated: _____.

Respectfully submitted,

**MEMORANDUM OF POINTS AND AUTHORITIES
IN SUPPORT OF MOTION FOR APPOINTMENT OF COUNSEL**

I. FACTUAL BACKGROUND.

Petitioner is a prisoner at the _____, in _____, California. As the petition for writ of habeas corpus alleges, petitioner is being held in violation of petitioner's constitutional right to due process, effective counsel and jury trial, among other rights.

Petitioner also seeks to proceed *in forma pauperis* due to petitioner's indigent state. (See application to proceed *in forma pauperis*, filed with this application.) Petitioner is currently serving a prison sentence of _____. Petitioner has no other counsel to assist him/her. Petitioner was represented by court-appointed counsel at trial and throughout the appeal in the state courts.

II. COUNSEL SHOULD BE APPOINTED IN THIS CASE IN THE INTEREST OF JUSTICE.

Title 18 of the United States Code, section 3006A, subdivision (a)(2)(B) provides that "whenever . . . the court determines that the interests of justice so require, representation may be provided for any financially eligible person who . . . (B) is seeking relief under section . . . 2254 . . . of Title 28." (*Weygandt v. Look* 718 F.2d 952, 954 (9th Cir. 1983)). Petitioner is such a person.

In deciding whether to appoint counsel in a habeas proceeding, the district court must evaluate the likelihood of success on the merits as well as the ability of the petitioner to articulate his claim pro se in light of the complexity of the legal issues involved.

Id., at p. 954.

The court must appoint counsel when the complexities of the case are such that denial of counsel would amount to a denial of due process. *Brown v. United States*, 623 F.2d 54, 61 (9th Cir. 1980). Counsel must also be appointed when the petitioner is a person of such limited education as to be incapable of presenting his/her claims in

such a way that the court can afford petitioner a fair hearing. *Hawkins v. Bennett*, 423 F.2d 948, 951 (4th Cir. 1970).

The Court should appoint counsel for petitioner because this case presents numerous important legal issues. The petition identifies _____ separate claims. Petitioner is not an attorney and has no legal training. The questions presented are simply too complex for briefing by petitioner himself. Analysis by an attorney is required in order to make petitioner's claim comprehensible to the Court and thus reduce the effort the Court must expend on the case. A lay person without a sophisticated understanding of criminal law, constitutional law and habeas corpus proceedings cannot be expected to cite applicable precedent, distinguish cases and present coherent argument.

These proceedings cannot proceed expeditiously if petitioner is required to represent him/herself. For these reasons, due process and practical considerations dictate that petitioner be allowed court-appointed counsel.

On these grounds, petitioner respectfully asks the Court to grant this motion for appointment of counsel.

Dated: _____.

Respectfully submitted,

(signature)

Name: _____

CDCR#: _____

Address: _____

IN THE UNITED STATES DISTRICT COURT
FOR THE _____ DISTRICT OF CALIFORNIA

<p>_____, Petitioner,</p> <p style="text-align: center;">v.</p> <p>_____, Secretary, California Department of Corrections & Rehabilitation;</p> <p>_____, Warden,</p> <p style="text-align: center;">Respondents.</p>	
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No.

**PETITIONER'S DECLARATION IN
SUPPORT OF MOTION FOR
APPOINTMENT OF COUNSEL.**

I, _____, declare:

1. I am the petitioner in this action.
2. I am currently incarcerated at _____.
3. I have no funds to hire an attorney to represent me in this matter.
4. I am unable to adequately represent myself because of my educational level and other considerations, as follows: _____

--	--

I declare under penalty of perjury that the foregoing is true and correct and that
this declaration was made on _____ (date) at _____ (city/state).

(signature)

§13.5 E. Location of Courts and Prisons by Federal Judicial District and County

A federal habeas corpus petition challenging a California state court conviction should be filed in the federal judicial district in which the court that issued the judgment of conviction is located. See §16.7 on venue. All appeals are to the Court of Appeals for the Ninth Circuit.

The following is a list giving the mailing addresses and telephone numbers of the United States District Courts in California, the counties each district encompasses, the state correctional institutions for adults located in each district, and the mailing address and telephone number of the Ninth Circuit Court of Appeals:

United States District Courts

1. Northern District

United States Courthouse, Federal Bldg.
450 Golden Gate Ave.
P.O. Box 36060

San Francisco, CA 94102
<http://www.cand.uscourts.gov>
(415) 522-2000

Counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, Santa Clara, Santa Cruz, San Francisco, San Mateo, Sonoma

State Prisons for Adults:

Correctional Training Facility (Highway 101 North, Soledad, Monterey County 93960, (831) 678-3951)

Pelican Bay State Prison (5905 Lake Earl Dr., Crescent City, Del Norte County 95531, (707) 465-1000)

Salinas Valley State Prison (31625 Highway 101, Soledad, Monterey County 93960, (831) 678-5500)

San Quentin State Prison (San Quentin, Marin County 94964, (415) 454-1460)

2. Eastern District

United States Courthouse
501 I St., Suite 4-200
Sacramento, CA 95814
<http://www.caed.uscourts.gov>
(916) 930-4000

Counties: Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Fresno, Glenn, Inyo, Kern, Kings, Lassen, Madera, Mariposa, Merced, Modoc, Mono, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Solano, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, Yuba

State Prisons for Adults:

Avenal State Prison (#1 Kings Way, Avenal, Kings County 93204, (559) 386-0587)

California Correctional Center (711-045 Center Rd., Susanville, Lassen County 96127-0790, (530) 257-2181)

California Correctional Institution (24900 Highway 202, Tehachapi, Kern County 93561, (661) 822-4402)

California Health Care Facility (7707 Austin Road, Stockton, San Joaquin County 95215, (209) 467-2500)

California Medical Facility (1600 California Dr., Vacaville, Solano County 95696, (707) 448-6841)

California State Prison, Sacramento (100 Prison Rd., Represa, Sacramento County 95671, (916) 985-8610)

California State Prison, Solano (2100 Peabody Rd., Vacaville, Solano County 95696, (707) 451-0182)

California Substance Abuse Treatment Facility (900 Quebec Ave., Corcoran, Kings County 93212, (559) 992-7100)

Central California Facility (23370 Road 22, Chowchilla, Madera County 93610, (559) 665-5531)

Corcoran State Prison (4001 King Ave., Corcoran, Kings County 93212, (559) 992-8800)

Deuel Vocational Institution (23500 Kasson Rd., Tracy, San Joaquin County 95376, (209) 835-4141)

Folsom State Prison (300 Prison Rd., Represa, Sacramento County 95671, (916) 985-2561)

High Desert State Prison (475-750 Rice Canyon Rd., Susanville, Lassen County 96127, (530) 251-5100)

Kern Valley State Prison (3000 West Cecil Ave., Delano, Kern County 93216-6000, (661) 721-6300)

Mule Creek State Prison (4001 Highway 104, Ione, Amador County 95640, (209) 274-4911)

North Kern State Prison (2737 West Cecil Ave., Delano, Kern County 93215, (661) 721-2345)

Pleasant Valley State Prison (24863 West Jayne Ave., Coalinga, Fresno County 93210, (559) 935-4900)

Sierra Conservation Center (5100 O'Byrnes Ferry Rd., Jamestown, Tuolumne County 95327, (209) 984-5291)

Valley State Prison (21633 Avenue 24, Chowchilla, Madera County 93610, (559) 665-6100)

Wasco State Prison (701 Scofield Ave., Wasco, Kern County 93280, (661) 758-8400)

3. Central District

United States Courthouse

312 N. Spring St.

Los Angeles, CA 90012

<http://www.cacd.uscourts.gov>

(213) 894-1565 or (213) 894-2215

Counties: Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, Ventura

State Prisons for Adults:

California Institution for Men (14901 Central Ave., Chino, San Bernardino County 91710, (909) 597-1821)

California Institution for Women (16756 Chino-Corona Rd., Corona, Riverside County 92880, (909) 597-1771)

California Men's Colony (Highway 1, San Luis Obispo, San Luis Obispo County 93409, (805) 547-7900)

California Rehabilitation Center (5th St. & Western, Norco, Riverside County 92860, (951) 737-2683)

California State Prison (44750 60th St. West, Lancaster, Los Angeles County 93536-7620, (661) 729-2000)

Chuckawalla Valley State Prison (19025 Wiley's Well Rd., Blythe, Riverside County 92225 (760) 922-5300)

Ironwood State Prison (19005 Wiley's Well Rd., Blythe, Riverside County 92225, (760) 921-3000)

4. Southern District

United States Courthouse

940 Front St.

San Diego, CA 92101-8900

<http://www.casd.uscourts.gov>

(619) 557-5600

Counties: San Diego, Imperial

State Prisons for Adults:

Calipatria State Prison (7018 Blair Rd., Calipatria, Imperial County 92233, (760) 348-7000)

Centinela State Prison (2302 Brown Rd., Imperial, Imperial County 92251, (760) 337-7900)

Richard J. Donovan Correctional Facility (480 Alta Rd., San Diego, San Diego County 92179, (619) 661-6500)

United States Court of Appeals for the Ninth Circuit

United States Court of Appeals, Ninth Judicial Circuit

95 Seventh St.

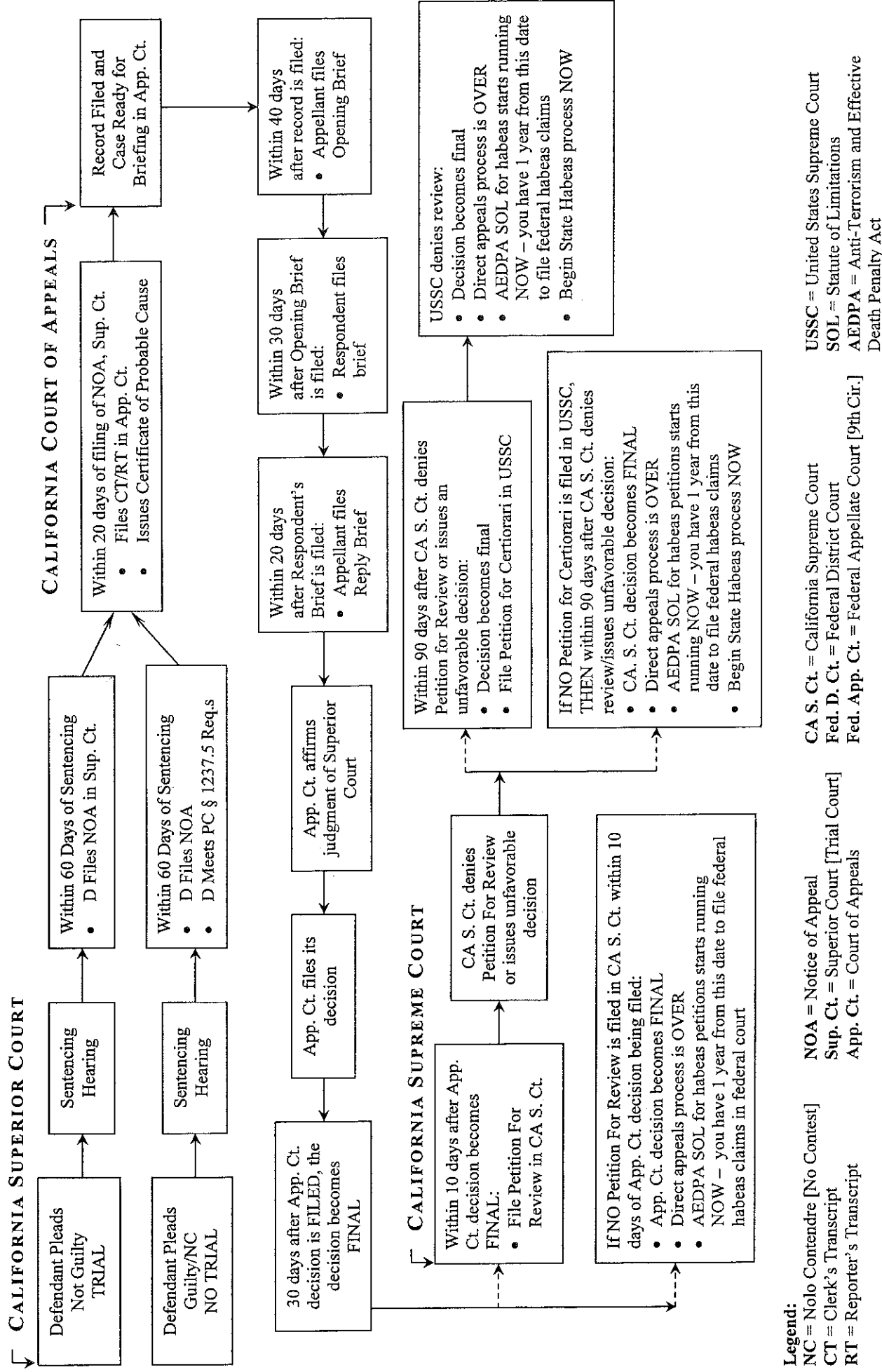
San Francisco, CA 94103

Mailing address: P.O. Box 193939, San Francisco, CA 94119-3939

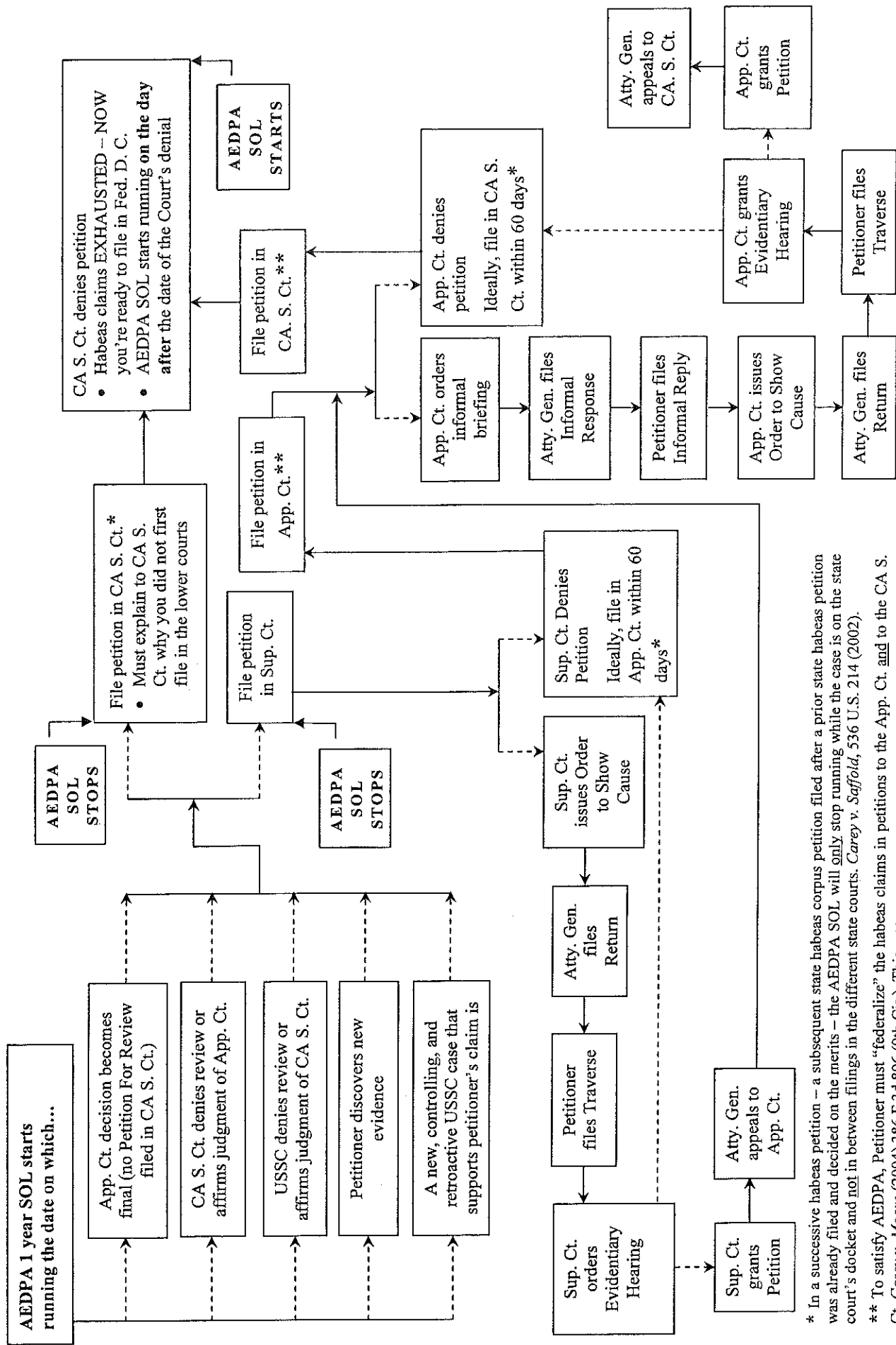
<https://www.ca9.uscourts.gov>

(415) 355-8000

CALIFORNIA DIRECT APPEALS PROCESS



CALIFORNIA STATE HABEAS CORPUS

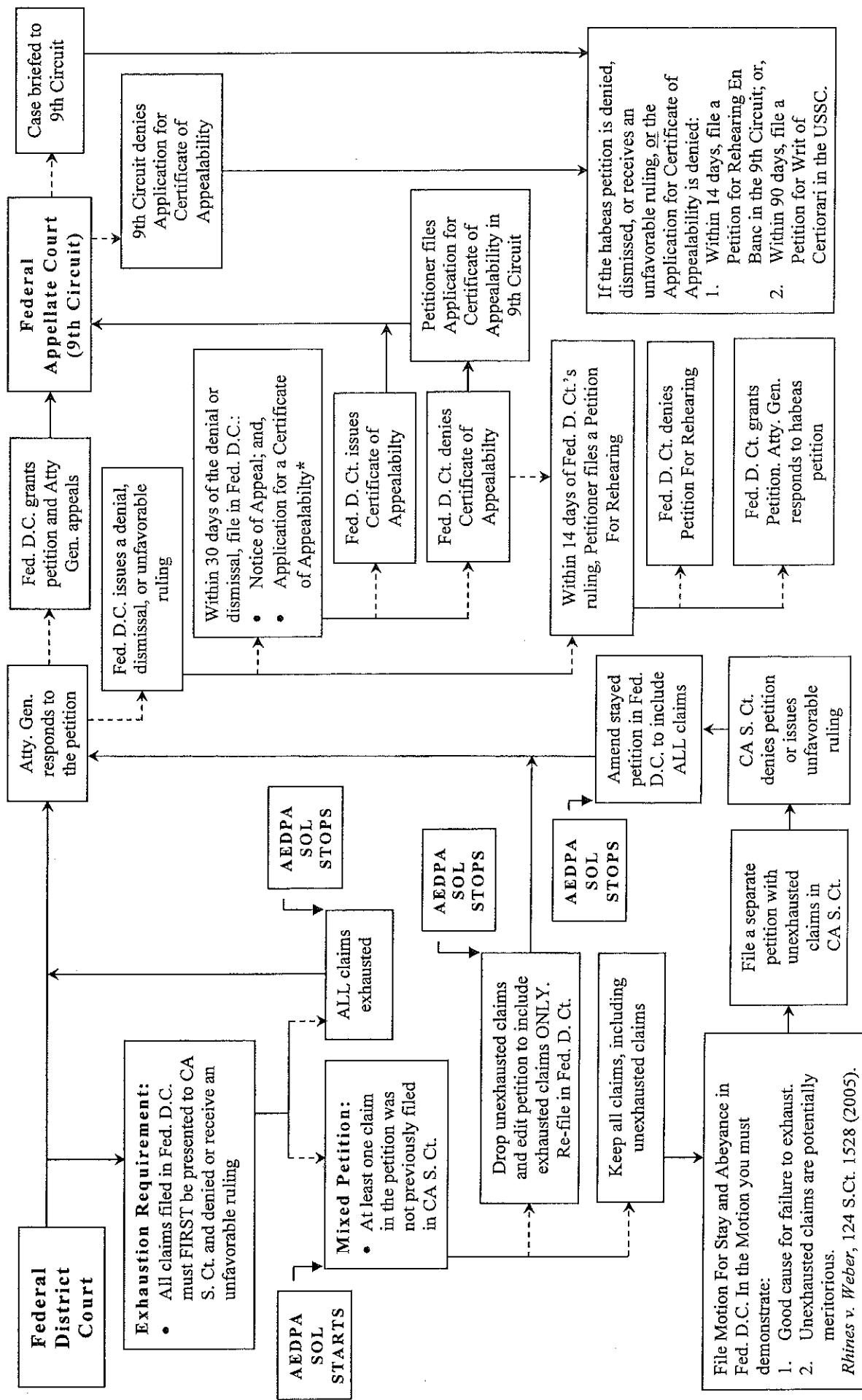


* In a successive habeas petition – a subsequent state habeas corpus petition filed after a prior state habeas petition was already filed and decided on the merits – the AEDPA SOL will only stop running while the case is on the state court's docket and not in between filings in the different state courts. *Carey v. Saffold*, 536 U.S. 214 (2002).

** To satisfy AEDPA, Petitioner must "federalize" the habeas claims in petitions to the App. Ct. and to the CA S. Ct. *Casey v. Moore* (2004) 386 F.3d 896 (9th Cir.). This means:

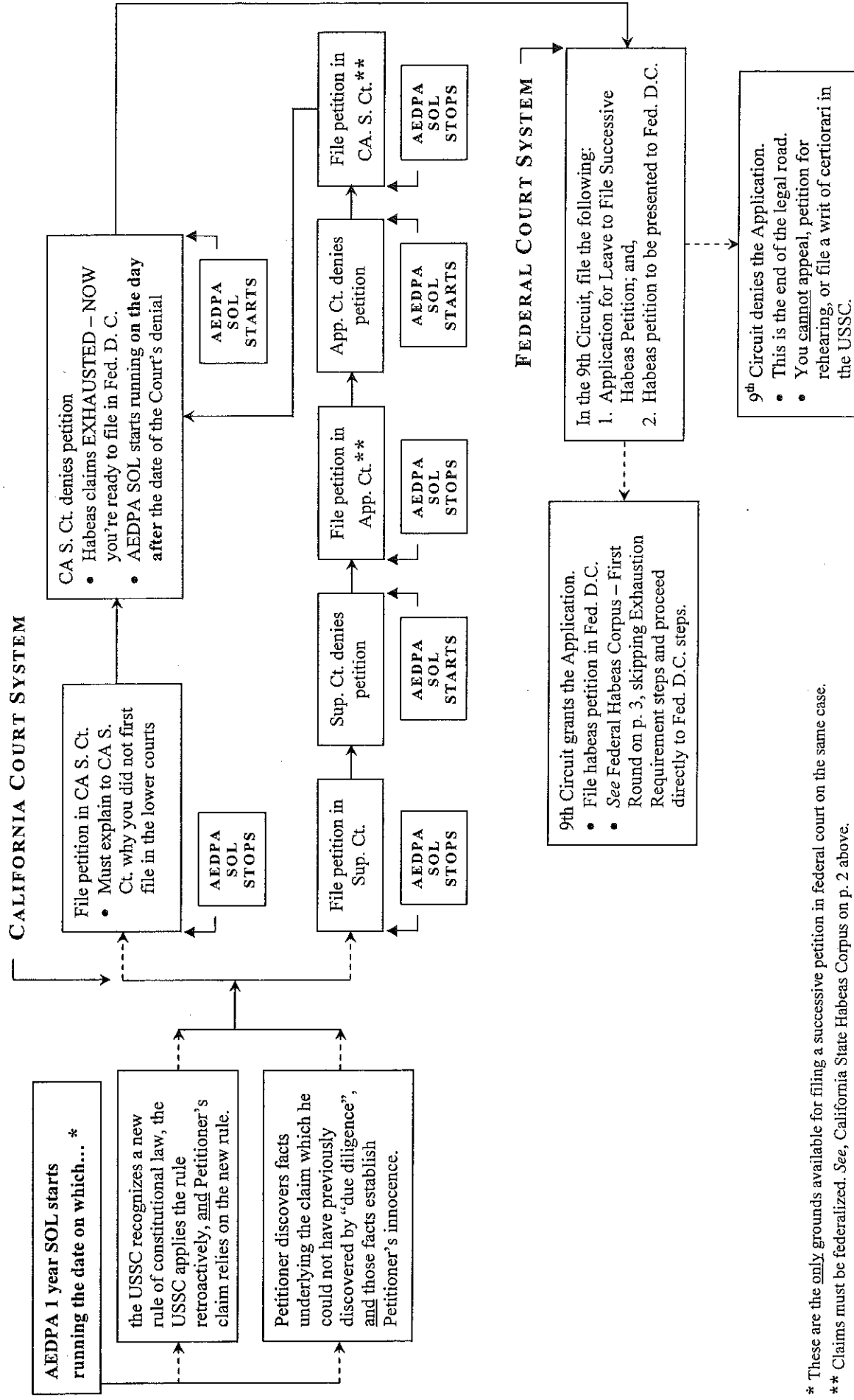
1. Basing the claims on the U.S. constitution.
2. Citing USSC legal authority that recognizes the right.

FEDERAL HABEAS CORPUS – FIRST ROUND



* A Certificate of Appealability is a request to the Fed. D. Ct. asking the court's permission to appeal its ruling to the 9th Circuit.

FEDERAL HABEAS CORPUS – SUCCESSIVE ROUND(S)



* These are the only grounds available for filing a successive petition in federal court on the same case.
 ** Claims must be federalized. See, California State Habeas Corpus on p. 2 above.

The following is provided only as a guide to *some* of the applicable law for each of the steps outlined in this document. This list is by no means exhaustive and is only intended as a starting point. Please consult your prison law library for more detailed information.

CALIFORNIA DIRECT APPEALS PROCESS	CALIFORNIA STATE HABEAS CORPUS	FEDERAL HABEAS CORPUS FIRST ROUND	FEDERAL HABEAS CORPUS SUCCESSIVE ROUND(S)
<p>California Rules of Court, Title 8. Appellate Rules, Division 1:</p> <ul style="list-style-type: none"> Chapter 1. General Provisions. <i>See</i>, Article 2. Chapter 2. Civil Appeals. <i>See</i>, Article 3, Rules 8.200 and 8.204. Chapter 3. Criminal Appeals. <i>See</i>, Articles 1 – 3. Chapter 8. Proceedings in the Supreme Court. <p>California Rules of Court, Title 8. Appellate Rules, Division 2:</p> <ul style="list-style-type: none"> Chapter 3. Appeals to the Appellate Division in Criminal Cases. 	<p>California Rules of Court, Title 8. Appellate Rules, Division 1:</p> <ul style="list-style-type: none"> Chapter 1. General Provisions. <i>See</i>, Article 2. Chapter 2. Civil Appeals. <i>See</i>, Article 3, Rule 8.204. Chapter 4. Habeas Corpus Appeals and Writs. Chapter 7. Miscellaneous Writs. <i>See</i>, Rule 8.490. <p>California Rules of Court, Title 8. Appellate Rules, Division 6:</p> <ul style="list-style-type: none"> Chapter 2. Habeas Corpus Civil Appeals. <p>Petitioner must explain any delay in filing a habeas petition. <i>In re Swain</i>, 34 Cal.2d 300 (1949); <i>In re Clark</i>, 5 Cal.4th 750, 765 (1993); <i>see also</i>, <i>In re Saunders</i>, 2 Cal.3d 1033, 1040 (1970) (delay is measured from the time at which petitioner became aware of the grounds on which he seeks relief). A claim that is substantially delayed will be considered if petitioner can demonstrate good cause for the delay. <i>In re Robbins</i>, 18 Cal.4th 770, 78 (1998).</p> <p>Claims that were raised and rejected on appeal may not be raised on habeas corpus. <i>In re Waltreus</i>, 62 Cal.2d 218 (1965); <i>see also</i>, <i>In re Harris</i> 5 Cal.4th 813 (1993). Claims that could have been raised on appeal but were not ordinarily cannot be raised on habeas corpus. <i>In re Dixon</i>, 41 Cal.2d 756 (1953).</p> <p>When a writ of habeas corpus has once been denied, a new application based on the same grounds will be denied unless there has been a change in the facts or the law. <i>In re Swain</i>, 34 Cal.2d 300 (1949). <i>See also</i>, <i>In re Lynch</i> (1972) 8 Cal.3d 410, 439 fn26 (1972); <i>Ex parte Miller</i>, 17 Cal.2d 734 (1941).</p>	<p>28 U.S.C. § 2254. <i>See</i>, generally.</p> <p>Federal Rules of Appellate Procedure:</p> <ul style="list-style-type: none"> Rule 22. Habeas Corpus and Section 2255 Proceedings. <p>Circuit Rules [local rules for 9th Circuit]:</p> <ul style="list-style-type: none"> Rule 22-1. Certificate of Appealability. Rule 24. Proceedings in Forma Pauperis. <p>A prisoner is prevented from benefiting on habeas corpus from a favorable change in the law that occurred after the time that the prisoner's conviction became final on direct appeal. <i>Teague v. Lane</i>, 489 U.S. 288 (1989). But, there are a few situations in which the <i>Teague</i> rule will <u>not</u> apply: (1) the new legal rule is substantive and not simply procedural; (2) even if the new rule is procedural, the new legal rule makes it legal to do something that was previously illegal to do; or, (3) the new rule of constitutional law is so indispensable to our system of justice that it can be deemed a "watershed" change in the law. <i>Id</i>.</p> <p>A prisoner seeking a Certificate of Appealability need only demonstrate a substantial showing of the denial of a constitutional right. <i>Miller-El v. Cockrell</i>, 537 U.S. 322 (2003).</p>	<p>28 U.S.C. § 2244, subdivisions:</p> <ul style="list-style-type: none"> (b)(1) – (2) (b)(3)(A) – (E) (d)(1)(C) – (D) (d)(2) <p>Circuit Rules [local rules for 9th Circuit]:</p> <ul style="list-style-type: none"> Rule 22-3. Application for Leave to File Second or Successive 2254 Petition. Rule 22-4. Appeals from Authorized Second or Successive 2254 Petitions. Rule 24. Proceedings in Forma Pauperis. Rule 30-1. The Excerpts of Record.