

WSR 23-21-033
RULES OF COURT
STATE SUPREME COURT
[October 3, 2023]

IN THE MATTER OF THE) ORDER
SUGGESTED AMENDMENTS TO) NO. 25700-A-1546
RAP 16.7—PERSONAL RESTRAINT)
PETITION—FORM OF PETITION)
AND RAP FORM 17—PERSONAL)
RESTRAINT PETITION FOR PERSON)
CONFINED BY STATE OR LOCAL)
GOVERNMENT)

The Washington State Court of Appeals Rules Committee, having recommended the suggested amendments to RAP 16.7—Personal Restraint Petition—Form of Petition and RAP Form 17—Personal Restraint Petition for Person Confined by State or Local Government, and the Court having approved the suggested amendments for publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the suggested amendments as shown below are to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites in January 2024.

(b) The purpose statement as required by GR 9(e), is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than April 30, 2024. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or supreme@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 3rd day of October, 2023.

For the Court

Gonzalez, C.J.

CHIEF JUSTICE

GR 9 COVER SHEET

Suggested Amendment

Rules of Appellate Procedure

RAP 16.7 - Personal Restraint Petition—Form of Petition

RAP Form 17 - Personal Restraint Petition for Person Confined by State or Local Government

A. Proponent: Washington State Court of Appeals Rules Committee

B. Spokesperson: Judge Bradley Maxa, Chair

C. Purpose: Add "1. My anticipated release date is _____." to Section A of the Personal Restraint Petition Form, renumber the existing inquiries in Section A, and amend RAP 16.7 (a) (1) to reflect the addition to the form. Requesting the petitioner's anticipated release date assists the court with case prioritization and increases the likelihood that a successful petitioner will obtain meaningful relief before the matter becomes moot.

D. Hearing: Not requested.

E. Expedited Consideration: Not requested.

F. Supporting Material: Suggested rule and form amendment.

RAP 16.7

PERSONAL RESTRAINT PETITION—FORM OF PETITION

(a) Generally. Under the titles indicated, the petition should set forth:

(1) Status of Petitioner. The restraint on petitioner; the place where petitioner is held in custody and anticipated release date, if confined; the judgment, sentence, or other order or authority upon which petitioners restraint is based, identified by date of entry, court, and cause number; any appeals taken from that judgment, sentence or order; and a statement of each other petition or collateral attack as that term is defined in RCW 10.73.090, whether filed in federal court or state court, filed with regard to the same allegedly unlawful restraint, identified by the date filed, the court, the disposition made by the court, and the date of disposition.

. . .

See RAP 18.17 for document formatting requirements.

RAP FORM 17. Personal Restraint Petition for Person Confined by State or Local Government [Rule 16.7]

No. [appellate court]

[Put name of appellate court that you want to hear your case.]

OF THE STATE OF WASHINGTON

[Put your name here],) PERSONAL
) RESTRAINT
) PETITION
Petitioner.)

If there is not enough room on this form, use the back of these pages or use other paper. Fill out all of this form and other papers you are attaching before you sign this form in front of a notary.

A. STATUS OF PETITIONER

I, _____,
(full name and address)

apply for relief from confinement. I am _____ am not _____ now in custody serving a sentence upon conviction of a crime. (If not serving a sentence upon conviction of a crime) I am now in custody because of the following type of court order:

_____.
(identify type of order)

1. My anticipated release date is _____.

1.2. The court in which I was sentenced is _____.

2.3. I was convicted of the crime(s) of _____.

3.4. I was sentenced after trial _____, after plea of guilty _____

on

_____.
(date of sentence) The judge who imposed sentence was

_____.
(name of trial court judge)

2. My lawyer at trial court was

_____.
(name and address if known; if none, write "none")

3. I did _____ did not _____ appeal from the decision of the trial court. (If the answer is that I did), I appealed to

_____.

(name of court or courts to which appeal was taken)

My lawyer on appeal was

(name and address if known; if none, write "none")

The decision of the appellate court was _____ was not _____ published. (If the answer is that it was published, and I have this information), the decision is published in

(volume number, Washington Appellate Reports or Washington Reports, and page number)

4. Since my conviction I have _____ have not _____ asked a court for some relief from my sentence other than I have already written above. (If the answer is that I have asked), the court I asked was

(name of court or courts in which relief was sought)
Relief was denied on

(date of decision or, if more than one, dates of all decisions)

5. (If I have answered in question 6 that I did ask for relief), the name of my lawyer in the proceeding mentioned in my answer to question 6 was

(name and address if known; if none, write "none")

6. If the answers to the above questions do not really tell about the proceedings and the courts, judges and attorneys involved in your case, tell about it here:

B. GROUNDS FOR RELIEF

(If I claim more than one reason for relief from confinement, I attach sheets for each reason separately, in the same way as the first one. The attached sheets should be numbered "First Ground", "Second Ground", "Third Ground", etc.). I claim that I have _____ (number) reason(s) for this court to grant me relief from the conviction and sentence described in Part A.

Ground
(First, Second, etc.)

1. I should be given a new trial or released from confinement because (Here state legal reasons why you think there was some error made in your case which gives you the right to a new trial or release from confinement.):

2. The following facts are important when considering my case (After each fact statement, put the name of the person or persons who know the fact and will support your statement of the fact. If the fact is already in the record of your case, indicate that, also.):

3. The following reported court decisions (include citations if possible) in cases similar to mine show the error I believe happened in my case (If none are known, state "None known".):

4. The following statutes and constitutional provisions should be considered by the court (If none are known, state "None known".):

5. This petition is the best way I know to get the relief I want, and no other way will work as well because

C. STATEMENT OF FINANCES

If you cannot afford to pay the filing fee or cannot afford to pay an attorney to help you, fill this out. If you have enough money for these things, do not fill out this part of the form.

1. I do _____ do not _____ ask the court to file this without making me pay the filing fee because I am so poor I cannot pay the fee.

2. I have a spendable balance of \$_____ in my prison or institution account.

3. I do _____ do not _____ ask the court to appoint a lawyer for me because I am so poor I cannot afford to pay a lawyer.

4. I am _____ am not _____ employed. My salary or wages amount to \$_____ a month. My employer is

(name and address)

5. During the past 12 months I did _____ did not _____ get any money from a business, profession or other form of self-employment. (If I did, it was _____ and the total income I got was \$_____.)

(kind of self-employment)

6. During the past 12 months, I

did _____ did not _____ get any rent payments. If so, the total amount I got was \$_____.
_____ _____ get any interest. If so, the total amount I got was \$_____.
_____ _____ get any dividends. If so, the total amount I got was \$_____.
_____ _____ get any other money. If so, the amount of money I got was \$_____.

7.

_____ _____ have any cash except as said in answer 2. If so, the total amount of cash I have is \$_____.
_____ _____ have any savings accounts or checking accounts. If so, the amount in all accounts is \$_____.
_____ _____ own stocks, bonds, or notes. If so, their total value is \$_____.

8. List all real estate and other property or things of value which belong to you or in which you have an interest. Tell what each item of property is worth and how much you owe on it. Do not list household furniture and furnishings and clothing which you or your family need.

Items Value

9. I am _____ am not _____ married. If I am married, my wife or husband's name and address is

10. All of the persons who need me to support them are listed here.

Name and Address Relationship Age

11. All the bills I owe are listed here.

Name of creditor you owe money to	Address	Amount
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D. REQUEST FOR RELIEF I want this court to:

_____ vacate my conviction and give me a new trial
 _____ vacate my conviction and dismiss the criminal charges
 against me without a new trial
 _____ other (specify)

E. OATH OF PETITIONER

THE STATE OF WASHINGTON)
 County of _____) ss.

After being first duly sworn, on oath, I depose and say: That I am the petitioner, that I have read the petition, know its contents, and I believe the petition is true.

[sign here]

SUBSCRIBED AND SWORN to before me this ____ day of ____.
Notary Public in and for the State of Washington, residing at:

If a notary is not available, explain why none is available and indicate who can be contacted to help you find a notary:

Then sign below:

I declare that I have examined this petition and to the best of my knowledge and belief it is true and correct.

[If the petition is prepared using word processing software, include the following statement: This document contains ____ words, excluding the parts of the document exempted from the word count by RAP 18.17.]

[date].

[sign here]

[Adopted effective July 1, 1976; Amended effective September 1, 1990; September 1, 2006; November 21, 2006; September 1, 2021.]