✎AO 242 (Rev. 2/95)

PETITIONER'S RESPONSE AS TO WHY HIS OR HER PETITION UNDER
28 USC § 2254 SHOULD NOT BE BARRED UNDER RULE 9

United States District Court	District
Petitioner (name under which convicted)	Respondent (authorized person having custody of petitioner)
V.	
The Attorney General of the State of:	Case No.

Petitioner's Response as to Why His or Her Petition Should Not be Barred Under Rule 9

Explanation and Instructions—Read Carefully

(I) Rule 9. Delayed or Successive Petitions.

(a) Delayed Petitions. A petition may be dismissed if it appears that the state of which the respondent is an officer has been prejudiced in its ability to respond to the petition by delay in its filing unless the petitioner shows that it is based on grounds of which he or she could not have had knowledge by the exercise of reasonable diligence before the circumstances prejudicial to the state occurred.

(b) Successive Petitions. A second or successive petition may be dismissed if the judge finds that it fails to allege new or different grounds for relief and the prior determination was on the merits or, if new and different grounds are alleged, the judge finds that the failure of the petitioner to assert those grounds in a prior petition constituted an abuse of the writ.

(II) Your petition for habeas corpus has been found to be subject to dismissal under rule 9 ( ) for the following reason(s):

(III) This form has been sent so that you may explain why your petition contains the defect(s) noted in (II) above. It is required that you fill out this form and send it back to the court within _____ days. Failure to do so will result in the automatic dismissal of your petition.

(IV) When you have fully completed this form, the original and two copies must be mailed to the Clerk of the United States District Court whose address is

(V) This response must be legibly handwritten or typewritten, and signed by the petitioner under penalty of perjury. Any false statement of a material fact may serve as the basis for prosecution and conviction for perjury. All questions must be answered concisely in the proper space on the form.

(VI) Additional pages are not permitted except with respect to the facts which you rely upon in Item 4 or 5 in the response. Any citation of authorities should be kept to an absolute minimum and is only appropriate if there has been a change in the law since the judgment you are attacking was rendered.

(VII) Respond to 4 or 5 below, not to both, unless (II) above indicates that you must answer both sections.

RESPONSE

1. Have you had the assistance of an attorney, other law-trained personnel, or writ writers since the conviction your petition is attacking was entered?

   Yes ☐ No ☐

2. If you checked "yes" above, specify as precisely as you can the period(s) of time during which you received such assistance, up to and including the present.

3. Describe the nature of the assistance, including the names of those who rendered it to you.

4. If your petition is in jeopardy because of delay prejudicial to the state under rule 9(a), explain why you feel the delay has not been prejudicial and/or why the delay is excusable under the terms of 9(a). This should be done by relying upon FACTS, not your opinions or conclusions.

5. If your petition is in jeopardy under rule 9(b) because it asserts the same grounds as a previous petition, explain why you feel it deserves a reconsideration. If its fault under rule 9(b) is that it asserts new grounds which should have been included in a prior petition, explain why you are raising these grounds now rather than previously. Your explanation should rely on FACTS, not your opinion or conclusions.

I declare under penalty of perjury that the foregoing is true and correct. Executed on

_____ .
(Date)

_____
Signature of Petitioner

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