District Court _____County, Colorado Court Address: **People of the State of Colorado** **v.** **Defendant**	Clerk's Event Codes: CR Cases: MR35 M or T Cases: MOTN ▲ **COURT USE ONLY** ▲
Attorney or Party Without Attorney (Name and Address): Phone Number: E-mail: FAX Number: Atty. Reg. #:	Case Number: Division Courtroom
PETITION FOR POSTCONVICTION RELIEF PURSUANT TO CRIM. P. 35(c)	

CONVICTION UNDER ATTACK

1. What was the date of your conviction? _____(day/month/year).

2. Which of the following resulted in your conviction? ❑PLEA, ❑JURY TRIAL, OR ❑COURT TRIAL.

3. Were you represented by an attorney? ❑YES ❑NO

If yes, list the names and addresses of any attorney who has ever represented you in this case. Attach additional sheets if necessary.

Name: _____ Name: _____

Address: _____ Address: _____

_____ _____

_____ _____

Nature of Representation (for example: preliminary hearing, plea, trial)

_____ _____

_____ _____

DIRECT APPEAL

4. Was this case appealed? ❑YES ❑NO If yes, please provide the following:

Appeal Case Number: _____

Appellate Court: _____

Result: _____ Date: _____

POSTCONVICTION PROCEEDINGS

5. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal, such as Rule 35(a), Rule 35(c), or a Writ of Habeas Corpus? ❑YES ❑NO

6. If your answer to **5** was "YES" give the following information for each petition filed:

a. FIRST petition, application or motion.

(1) Name of court _____

(2) Nature of proceeding (for example, Rule 35(a), Rule 35(c), § 2254 Writ of Habeas Corpus)

_____

(3) Claims raised

_____

_____

(4) Name of attorney if any _____

(5) Did you receive an evidentiary hearing on your petition, application, or motion? ❑YES ❑NO

(6) Result _____

(7) Date of Result _____

(8) Did you appeal the result? ❑YES ❑NO

i) If you did appeal, what was the result and date of the court's decision (or attach a copy of the court's opinion or order)?

_____

_____

ii) If you did not appeal, briefly explain why you did not.

_____

_____

b. For a second or subsequent petition, please answer the questions listed in (6)(a)(1) through (7) above. Attach a separate sheet of paper and state at the top that you are listing other motions or petitions filed in this case.

REQUEST FOR COUNSEL

7. Are you requesting that counsel be appointed to represent you on this petition?

❑YES ❑NO If yes, please attached an indigency application (JDF 208).

CLAIMS

Briefly specify every ground on which you claim that you are being held unlawfully.

- STATE THE FACTS RELATED TO YOUR CLAIM ON ONE PAGE AND PUT ANY LEGAL AUTHORITY ON A SEPARATE PAGE.
- YOU SHOULD RAISE IN THIS PETITION ALL THE CLAIMS FOR RELIEF THAT RELATE TO THE CONVICTION ORSENTENCE UNDER ATTACK. IF YOU DO NOT RAISE ALL CLAIMS HERE, THE COURT MAY NOT HAVE TO ENTERTAIN LATER MOTIONS FOR SIMILAR RELIEF.

GROUNDS OF PETITION

Specify every ground on which you claim that you are being held unlawfully, by placing a check mark in the appropriate box below and providing the required information. Include all facts. Attach pages stating the grounds and the facts referenced to each claim.

8. The grounds for this Petition are as follows: (check all that apply)

a. ❑ The Defendant has sought appeal of a conviction within the time prescribed, and judgment on that conviction has not then been affirmed upon appeal, and there has been a significant change in the law which if applied to this conviction or sentence, the interests of justice allow the retroactive application of the changed legal standard. (In other words, there was a change in the law and the Defendant is allowed the positive retroactive effect of the change.)

b. No review of a conviction of crime was sought by appeal within the time prescribed therefore, or a judgment of conviction was affirmed upon appeal. However, in good faith the Defendant alleges one or more of the following:

(1) ❑ That the conviction was obtained or sentence imposed in violation of the Constitution or laws of the United States or the constitution or laws of this state.

(2) ❑ That the Defendant was convicted under a statute that is in violation of the Constitution of the United States or the constitution of this state, or that the conduct for which the applicant was prosecuted is constitutionally protected.

(3) ❑ That the court rendering judgment was without jurisdiction over the person of the applicant or the subject matter.

(4) ❑ That there exists evidence of material facts, not theretofore presented and heard, which, by the exercise of reasonable diligence, could not have been known to or learned by the Defendant or his attorney prior to the submission of the issues to the court or jury, and which requires vacation of the conviction or sentence in the interest of justice.

(5) ❑ Any other ground otherwise properly the basis for collateral attack upon a criminal judgment.

(6) ❑ That the sentence imposed has been fully served or that there has been unlawful revocation of parole, probation, or conditional release.

For any box checked, YOU MUST attach a separate sheet of paper with the ground listed at the top of the page and number it accordingly, 8(a), 8(b)(1), 8(b)(2), 8(b)(3), 8(b)(4), 8(b)(5), 8(b)(6), and/or 8(b)(7). On each separate sheet of paper list each and every fact you feel supports that claim. Be specific and give details.

9. Colorado Revised Statutes §16-5-402(1) provides that a person who has been convicted under a criminal statute in Colorado or another state may collaterally attack the validity of that conviction only if such attack is brought within a specified time period or completion of the direct appeal process for that conviction, unless one of the exceptions listed in §16-5-402(2), C.R.S. are applicable. The specified time periods are as follows:

All class 1 felonies:	No limit
All other felonies:	Three years
Misdemeanors:	Eighteen months
Petty offenses:	Six months

a. Was this petition filed within the time limits set forth in §16-5-402(1), 6 C.R.S. (above)?

❑ YES ❑ NO

b. If not, check any applicable exceptions listed in §16-5-402(2), 6 C.R.S., and state the FACTS that relate to the exception. DO NOT MAKE LEGAL ARGUMENTS.

(1) ❑ The court entering judgment of conviction did not have jurisdiction over the subject matter of the alleged offense;

(2) ❑ The court entering judgment of conviction did not have jurisdiction over the person of the Defendant;

(3) ❑ The failure to seek relief within the applicable time period was caused by an adjudication of incompetence or by commitment of the Defendant to an institution for treatment as a mentally ill person; or

(4) ❑ The failure to seek relief within the applicable time period was the result of circumstances amounting to justifiable excuse or excusable neglect.

❑ By checking this box, I am acknowledging I am filling in the blanks and not changing anything else on the form.

❑ By checking this box, I am acknowledging that I have made a change to the original content of this form.

For every ground you checked as grounds for this petition not being filed within the statutory time limits, YOU MUST attach a separate sheet of paper with that ground listed at the top of the page and numbered accordingly* 9(b)(1), 9(b)(2), 9(b)(3), *and/or 9(b)(4). On this separate sheet of paper list each and every fact you feel supports this claim. Be specific and give details.

SUCCESSIVE PETITIONS

Important Notice Regarding Additional Petitions:

With specific exceptions provided for in Criminal Procedure Rule 35(c)(3)(VII), the court shall deny any claim that could have been presented in an appeal or postconviction proceeding previously brought.

Therefore, all claims related to the conviction under attack in this petition must be listed in this petition, or future motions may be denied.

Wherefore, petitioner prays that the Court grant relief to which petitioner may be entitled in this proceeding.

_____ _____ (date)

PETITIONER'S ORIGINAL SIGNATURE

_____

PETITIONER'S PRINTED NAME

_____

ADDRESS

_____

CITY, STATE, ZIP CODE

_____

PHONE NUMBER