

Habeas Corpus

Local Rule 301 Formal Requirements.

Any request for issuance of a writ of habeas corpus shall be in writing by petition and in accordance with the following:

- (1) The caption shall contain the name of the Commonwealth at the relation of the petitioner in whose behalf the relief is requested, and name as respondent the person who exercises the alleged unlawful restraint, as well as the capacity in which such restraint is asserted, if any.
- (2) The petition shall contain allegations of fact and shall be signed and verified by petitioner. If petitioner is unable to sign and verify the petition, the reason shall be set forth.
- (3) When the person restrained is an incapacitated person or a minor, the petition shall be brought on behalf of the person restrained by that person's next friend, parent or guardian.
- (4) Where the restraint arises out of arrest and incarceration, for any summary or criminal offense, a notice of presentation and a copy of the petition for habeas corpus shall be given forthwith to the District Attorney of Allegheny County.
- (5) A proposed preliminary order shall be attached to the petition.
- (6) Petitions alleging restraint by law enforcement authorities shall be filed in the Criminal Division; petitions alleging restraint pursuant to an order of Court shall be filed in the Division of Court which issued the order; other petitions shall be filed in the appropriate division of the court.

Editor's Note: Effective December 4, 2006.

Local Rule 302 Contents of Petition.

The petition for the issuance of the writ of habeas corpus shall contain allegations of fact as follows:

- (1) The basis for the jurisdiction and venue of the Court shall be set forth, as well as the place of confinement or restraint. If the place of confinement or restraint is unknown, this shall be alleged.
- (2) Facts must be alleged that show precisely the alleged illegal restraint and the identity of the person in whose custody the person is restrained.

- (3) (a) Any prior or pending legal proceeding pertaining to the restraint shall be referred to specifically. Any basis or authority for the restraint shall be specifically set forth. If the basis or authority for the restraint is unknown, this shall be alleged.
- (b) When the restraint is a result of a commitment by an issuing authority, a statement of the proceedings before the issuing authority shall be attached.
- (4) The facts upon which the right to relief is based must be alleged and a succinct statement of the reasons why the restraint is unlawful shall be set forth without extended argument.

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Local Rule 303 Procedure.

The procedure for issuance of a writ of habeas corpus shall be as follows:

- (1) The petition shall be presented with an appropriate order. The order signed at the time application for relief is made may deny the requested relief, set a hearing date, grant a rule or grant any other appropriate relief.
- (2) When the Court directs the release of a relator upon any conditions of bail pending hearing on the petition, the order shall contain the amount and type of bail and the office in which bail shall be posted.
- (3) Upon the direction of the Court that a writ be issued, the order shall be filed with the Prothonotary, and a proper writ of habeas corpus shall be procured from the Prothonotary and served on the respondent as the Court may direct.

Note: It is expected that where the petitioner proceeds upon petition and rule that the order of Court granting the rule shall also provide a direction of notice to the appropriate parties.

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