

Categories of Potential Claims to Raise in Habeas Corpus Proceedings

by

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Category No.	Brief Description	Probability of Relief	Notes
1	Exceptional	High Probability of Relief	For example, an actual conflict of interest claim where there is an actual conflict of interest, and there was an adverse effect upon the defense. This claim does not require the habeas petitioner to prove prejudice or materiality. Another example is a false testimony claim where the false testimony was relevant to the core factual issues in dispute.
2	Good	Reasonable Probability of Relief	For example, an ineffective assistance of counsel claim where counsel's performance was deficient in an area that was critical to the defense in a triable case. Another example is a failure to disclose favorable evidence claim where the favorable evidence was relevant to an area that was critical to the defense in a triable case.
3	Fair	Reasonable Possibility of Relief	For example, an ineffective assistance of counsel claim where counsel's performance might have been deficient, where the deficient performance was in an area that was not the most critical to the defense at trial, or, most importantly, where the deficient performance might not undermine confidence in the judgment due to unaffected inculpatory evidence.
4	Non-Frivolous	No Reasonable Possibility of Relief	For example, an ineffective assistance of counsel claim where counsel's performance was arguably deficient, where the deficient performance was in an area that arguably might have affected the trial, or, most importantly, where the deficient performance almost certainly does not undermine confidence in the judgment due to significant unaffected inculpatory evidence.
5	Frivolous	No Possibility of Relief	For example, an ineffective assistance of counsel claim where there is no evidence of deficient performance, where the purported deficient performance is not relevant to the factual issues in dispute, or, most importantly, where there is no evidence that the purported deficient performance might have affected the trial.