UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI

INSTRUCTIONS FOR COMPLAINTS UNDER 42 U.S.C. §1983 CHALLENING CONDITIONS OF CONFINEMENT

1. All Complaints should be submitted on the Northern District of Mississippi's Form P3, pursuant to the court's *Standing Order* dated September 17, 1998. Complaints must be typewritten or legibly handwritten, and signed by you 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 of Form P3.

2. Use the spaces provided in Form P3 to present your case. Do not use additional pages except with respect to the facts upon which you rely to support your case. Citation of cases, statutes, or other authority is not required. Briefs and arguments are not required; however, if they are provided, they must be submitted in the form of a separate memorandum.

3. Mail Complaint to:

   Pro Se Law Clerk, U.S. District Court
   310 W. Commerce St. #13
   Aberdeen, MS 39730

4. Only the original is to be filed with the court. If a file-stamped copy is to be returned, provide a copy of the complaint and a self-addressed stamped envelope with adequate postage to cover costs of mailing a file-stamped copy to you.

5. You must pay the filing fee of **$400 ($350 filing fee + $50 administrative fee)**. If you cannot pay this fee, you may seek authorization to proceed *in forma pauperis* by completing the Pauperis Affidavit Form attached at the end of this form. If the Court grants in forma pauperis status, your prison account will be assessed the filing fee of $350.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI

IMPORTANT NOTICE TO PRISONERS
FILING AN ACTION UNDER 42 U.S.C. §1983

On April 26, 1996, the President of the United States signed into law certain amendments to Title 28, United States Code, Section 1915 and Section 1932, entitled the Prison Litigation Reform Act. The Governor of Mississippi also approved amendments passed by the Mississippi Legislature to Section 47-5-138 of the Mississippi Code of 1972. These amendments may affect your decision to continue with this lawsuit.

I. IMPOSITION OF FILING FEES

In accordance with the 1996 amendments to the in forma pauperis (IFP) statute, as a prisoner you will be obligated to pay the filing fee of $400 ($350 filing fee + $50 administrative fee) for a civil action, $5.00 for a habeas corpus petition, or $455 for an appeal.

1. If you have the money to pay the filing fee, you should immediately send a cashier's check or money order to the court.

2. If you do not have enough money to pay the full filing fee the court will assess an initial partial filing fee thirty (30) days from the filing of your complaint. The initial partial filing fee will be equal to 20 percent of the average monthly deposits to your prison account for the last six months or 20 percent of the average monthly balance in your prison account for the last six months period, whichever is greater. The court will order the agency that has custody of you to take that initial partial filing fee out of your prisoner account as soon as funds are available and to forward the money to the court.

After the initial partial filing fee has been paid, you will owe the balance of the filing fee. Until the amount of the filing fee is paid in full, each month you will owe 20 percent of your preceding month's income credited to your prison account toward the balance. The agency that has custody of you will collect that money and send payments to the court any time the amount in your account exceeds $10.00.

3. Regardless of whether some or all of the filing fee has been paid, the court is required to screen your complaint and to DISMISS the complaint if:

a. Your allegation of poverty is untrue
b. The action is frivolous or malicious;
c. Your complaint does not state a claim upon which relief can be granted; or
d. You sue a defendant for money damages and that defendant is immune from liability for money damages.

4. Judgments including costs – If a judgment is rendered against you that includes the payment of costs, you will be required to pay the **full amount** of the costs ordered. You will be required to make payments for costs in the same manner as is provided (above, page 1, section I.) for filing fees.

II. NOTICE AND WARNING

1. Federal Law – Future Suits May be Barred

Under the new amendments to 28 U.S.C. §1915, if a prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was **dismissed** on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, the prisoner **will be barred** from bringing any further civil action or appeal a judgment in a civil action or proceeding unless the prisoner is under imminent danger of serious physical injury. 28 U.S.C. §1915, 804(g)

2. Federal Law – Loss of Good Time

Under the new amendment to 28 U.S.C. §1932, in any civil action brought by an adult convicted of a crime and confined in a Federal Correctional Facility, if the court finds that the claim was filed for a malicious purpose, or the claim was filed solely to harass the party against which it was filed, or the claimant testifies falsely or otherwise knowingly presents false evidence or information to the court, the court may order the revocation of earned good time credit under 18 U.S.C. §3624(b), that has not yet vested.

3. State Law – Loss of Good Time

Under the new amendments to Mississippi Code 47-5-138, if a lawsuit brought by an inmate while the inmate was in the custody of the Department of Corrections is dismissed as frivolous or malicious, by a final order, the department shall forfeit:

a. Sixty (60) days of an inmate's accrued earned time if the department has received one (1) final order;
b. One hundred twenty (120) days of an inmate's accrued earned time if the department has received two (2) final orders;
c. One hundred eighty (180) days of an inmate's accrued earned time if the department has received three (3) or more final orders.

The Department may not restore earned time forfeited under this section.

In light of the potential consequences of having your case dismissed as "frivolous" you are advised that the term "frivolous" may have a legal meaning that is different from what you consider this term to mean. Even though you are completely sincere in your suit, it may be dismissed as "frivolous" if it lacks an arguable basis in law or fact. Thus, a case may be found to be legally "frivolous" where it seeks to assert a "right" or address a "wrong" clearly not recognized by federal law. See e.g., *Neitzke v. Williams*, 490 U.S. 319 (1989)

David Crews
Clerk of Court

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI

_____

Plaintiff

v. **CASE NO.** _____

_____

Defendant

PRISONER'S COMPLAINT CHALLENGING CONDITIONS OF CONFINEMENT

1. The Plaintiff's full legal name, the name under which the Plaintiff was sentenced, the Plaintiff's inmate identification number, the Plaintiff's mailing address, and the Plaintiff's place of confinement are as follows:

   A. Legal name: _____

   B. Name under which sentenced: _____

   C. Inmate identification number: _____

   D. Plaintiff's mailing address (street or post office box number, city, state, ZIP): _____

   E. Place of confinement: _____

2. Plaintiff names the following person(s) as the Defendant(s) in this civil action:

   Name: _____

   Title (Superintendent, Sheriff, etc.): _____

   Defendant's mailing address (street or post office box number, city, state, ZIP) _____

Name: _____

Title (Superintendent, Sheriff, etc.): _____

Defendant's mailing address (street or post office. box number, city, state, ZIP) _____

Name: _____

Title (Superintendent, Sheriff, etc.): _____

Defendant's mailing address (street or post office box number, city, state, ZIP) _____

Name: _____

Title (Superintendent, Sheriff, etc.): _____

Defendant's mailing address (street or post office box number, city, state, ZIP) _____

(If additional Defendants are named, provide on separates sheets of paper the complete name, title, and address information for each. Clearly label each additional sheet as being a continuation of Question 2).

3. Have you commenced other lawsuits in any other court, state or federal, dealing with or pertaining to the same facts that you allege in this lawsuit or otherwise relating to your imprisonment? ☐ Yes ☐ No

4. If you checked "Yes" in Question 3, describe each lawsuit in the space below. If there is more than one lawsuit, describe the additional lawsuit(s) on separate sheets of paper; clearly label each additional sheet as being a continuation of Question 4.

A. Parties to the lawsuit:

Plaintiff(s): _____

Defendant(s): _____

B. Court: _____ C. Docket No.: _____

D. Judge's Name: _____ E. Date suit filed: _____

F. Date decided: _____ G. Result (affirmed, reversed, etc.): _____

5. Is there a prisoner grievance procedure or system in the place of your confinement? ☐ Yes ☐ No

6. If "Yes," did you present to the grievance system **the same facts and issues** you allege in this complaint? (See question 9, below). ☐ Yes ☐ No

7. If you checked "Yes" in Question 6, answer the following questions:

A. Does the grievance system place a limit on the time within which a grievance must be presented? ☐ Yes ☐ No

B. If you answered "Yes," did you file or present your grievance within the time limit allowed? ☐ Yes ☐ No

C. The court must find that you exhausted the prison's grievance system and administrative remedies before it can consider this Complaint. State everything you did to present your grievance(s). Be specific. Include the date(s) on which you filed or presented your grievances to prison officers; identify the officer(s). State your claim(s) exactly.

D. State specifically what official response your grievance received. If the prison provides an administrative review of the decision on your grievance, state whether you applied for that review and what the result was.

Special Note: Attach to this Complaint as exhibits complete copies of all requests you made for administrative relief through the grievance system, all responses to your requests or grievances, all administrative appeals you made, all responses to your appeals, and all receipts for documents that you have.

8. If you checked "No" in Question 6, explain why you did not use the grievance procedures or system:

9. Write below, as briefly as possible, the **facts** of your case. Describe how **each** Defendant is involved. Write the names of all other persons involved. Include dates and precise places of events. Do not give any legal argument or cite any legal authority. If you have more than one claim to present, number each claim in a separate paragraph. Attach additional pages only if necessary; label attached pages as being continuations of Question 9.

10. State **briefly** exactly what you want the court to do for you. Do not make legal arguments. Do not cite legal authority.

This Complaint was executed at (location): _____

and I declare or certify or verify or state under penalty of perjury that this Complaint is true and correct.

Date: _____

Plaintiff's Signature

INSTRUCTIONS FOR COMPLETING MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

The following form is designed to assist you in applying to the court for leave to proceed in forma pauperis.

Respond to every question in this Motion form. Do not leave any blanks.

The check boxes ask for "Yes" or "No" responses. Place a (✓) in the appropriate box for every question. Do not leave any blanks.

If your response or answer to a question is "0" (zero) or "Not Applicable" (N/A), write in that response.

If you need more space to answer or respond to a question, attach a separate sheet of paper labeled with your full name, your case's docket number, the question number from the Motion, and your answer or response.

Print legibly or typewrite.

Sign and date the Motion on the last page.

Two forms – an *Authorization for Release of Institutional Account Information and Payment of the Filing Fee*, and a *Certificate* – are attached to this motion. You must complete the *Authorization for Release of Institutional Account Information and Payment of the Filing Fee*. You must also submit the *Certificate* on page 9 to the custodian of your inmate account for completion. **Both forms are to be submitted to the Clerk of the Court when you file your Motion for Leave to Proceed In Forma Pauperis** *(Affidavit in Support of Motion to Proceed In Forma Pauperis* ***and*** *Authorization for Release of Institutional Account Information and Payment of the Filing Fee)*.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI

_____ **Division**

AFFIDAVIT IN SUPPORT OF MOTION TO PROCEED IN FORMA PAUPERIS

1. I swear or affirm under penalty of perjury as follows:

   A. Because of my poverty, I cannot prepay or give security for the filing fees and costs for my complaint or appeal.

   B. I believe I am entitled to legal redress.

   C. I swear or affirm under penalty of perjury that my answers and responses on this Motion and Affidavit are true and correct. (28 USC § 1746; 18 USC § 1621).

   _____
   Movant's Signature

2. My full name and mailing address are as follows:

   Name: _____

   Address: _____

   _____

   Tel. No. _____ Date of Birth: _____

3. Are you presently employed? ❑ Yes ❑ No

   a. If you checked "Yes," state the amount of your salary, wages, or other compensation per month and give the name and address of your employer. _____

   b. If you checked "No," state the date of your last employment and the amount of the salary, wages, or other compensation you received per month. _____

4. Have you received with the past 12 months any money from any of the following sources:

   a. Business, profession, or form of self-employment? ❑ Yes ❑ No

b. Rent payments, interest, or dividends? ❑ Yes ❑ No

c. Pensions, annuities, or life insurance payments? ❑ Yes ❑ No

d. Gifts or inheritances? ❑ Yes ❑ No

e. Any other source? ❑ Yes ❑ No

If the answer to any of the above is "Yes," describe each source of money and state the amount you received from each during the past 12 months: _____

_____

_____

_____

5. Do you own any cash, or do you have any money in a checking or a savings account, including any funds in prison accounts? ❑ Yes ❑ No

If your answer "Yes," state the total value of the items owned: $ _____

6. Do you own real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing? ❑ Yes ❑ No

If your answer "Yes," describe the property and state its approximate value: $ _____

7. List the persons who rely on you for support.

Name	Relationship & Age	Amount you contribute to this person's support
		$
		$
		$

I declare or certify or verify or state under penalty of perjury that the foregoing is true and correct. (28 USC § 1746; 18 USC § 1621).

Date: _____ _____

Movant's Signature

THIS FORM IS TO BE COMPLETED BY THE PLAINTIFF/MOVANT

AUTHORIZATION FOR RELEASE OF INSTITUTIONAL ACCOUNT INFORMATION AND PAYMENT OF THE FILING FEE

I, _____ hereby direct

Movant's Name and Prison Register or Identification Number

and authorize the custodian of my inmate account to provide the Clerk of the United States District Court for the Northern District of Mississippi information from my prison inmate institutional account, including all balances, deposits, and withdrawals. The custodian of my inmate account may also provide the Clerk of Court information from the past 6 months and in the future until the full filing fee is paid. I also authorize custodian of my inmate account to withdraw funds from my account and to send the payments to the Clerk of Court, in accordance with 28 United States Code § 1915 (as amended).

Date: _____ _____

Movant's Signature

CERTIFICATE

(Prisoner Accounts Only)

THIS FORM IS TO BE COMPLETED BY AN AUTHORIZED INSTITUTIONAL OFFICER

I certify that _____

Movant's Name and Prison Register or Identification Number

is a prisoner confined at the following institution: _____

I certify that I am the institution's officer responsible for making certifications regarding prisoners' inmate accounts. I certify that as of the date appearing next to my signature at the bottom of this Certificate, the prisoner named above has the following sum of money on deposit in the inmate account records at this institution: $ _____

I further certify that during the last 6 months this prisoner's average monthly balance in the inmate account records was: $ _____

I further certify that during the last 6 months this prisoner's average monthly deposit in the inmate account records was: $ _____

I further certify that the prisoner has the following securities to his credit: _____

Date: _____ _____

Prison Inmate Account Officer's Signature

Mail this form to: Pro Se Law Clerk, U.S. District Court, Post Office Box 704, Aberdeen, Mississippi 39730