

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Instructions

1. **Who Should Use This Form.** You should use this form if
 - you are a federal prisoner and you wish to challenge the way your sentence is being carried out (*for example, you claim that the Bureau of Prisons miscalculated your sentence or failed to properly award good time credits*);
 - you are in federal or state custody because of something other than a judgment of conviction (*for example, you are in pretrial detention or are awaiting extradition*); or
 - you are alleging that you are illegally detained in immigration custody.
2. **Who Should Not Use This Form.** You should not use this form if
 - you are challenging the validity of a federal judgment of conviction and sentence (*these challenges are generally raised in a motion under 28 U.S.C. § 2255*);
 - you are challenging the validity of a state judgment of conviction and sentence (*these challenges are generally raised in a petition under 28 U.S.C. § 2254*); or
 - you are challenging a final order of removal in an immigration case (*these challenges are generally raised in a petition for review directly with a United States Court of Appeals*).

3. **Preparing the Petition.** The petition must be typed or neatly written, and you must sign and date it under penalty of perjury. **A false statement may lead to prosecution.**

All questions must be answered clearly and concisely in the space on the form. If needed, you may attach additional pages or file a memorandum in support of the petition. If you attach additional pages, number the pages and identify which section of the petition is being continued. Note that some courts have page limitations. All filings must be submitted on paper sized 8½ by 11 inches. **Do not use the back of any page.**

4. **Supporting Documents.** In addition to your petition, you must send to the court a copy of the decisions you are challenging and a copy of any briefs or administrative remedy forms filed in your case.
5. **Required Filing Fee.** You must include the \$5 filing fee required by 28 U.S.C. § 1914(a). If you are unable to pay the filing fee, you must ask the court for permission to proceed in forma pauperis – that is, as a person who cannot pay the filing fee – by submitting the documents that the court requires.
6. **Submitting Documents to the Court.** Mail your petition and ____ copies to the clerk of the United States District Court for the district and division in which you are confined. For a list of districts and divisions, see 28 U.S.C. §§ 81-131. All copies must be identical to the original. Copies may be legibly handwritten.

If you want a file-stamped copy of the petition, you must enclose an additional copy of the petition and ask the court to file-stamp it and return it to you.

7. **Change of Address.** You must immediately notify the court in writing of any change of address. If you do not, the court may dismiss your case.

UNITED STATES DISTRICT COURT
for the

Petitioner
v.
Respondent
Case No. (Supplied by Clerk of Court)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

- 1. (a) Your full name:
(b) Other names you have used:
2. Place of confinement:
(a) Name of institution:
(b) Address:
(c) Your identification number:
3. Are you currently being held on orders by:
Federal authorities State authorities Other - explain:
4. Are you currently:
A pretrial detainee (waiting for trial on criminal charges)
Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
If you are currently serving a sentence, provide:
(a) Name and location of court that sentenced you:
(b) Docket number of criminal case:
(c) Date of sentencing:
Being held on an immigration charge
Other (explain):

Decision or Action You Are Challenging

5. What are you challenging in this petition:
- How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)
 - Pretrial detention
 - Immigration detention
 - Detainer
 - The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
 - Disciplinary proceedings
 - Other (*explain*): _____

6. Provide more information about the decision or action you are challenging:
- (a) Name and location of the agency or court: _____

 - (b) Docket number, case number, or opinion number: _____
 - (c) Decision or action you are challenging (*for disciplinary proceedings, specify the penalties imposed*):

 - (d) Date of the decision or action: _____

Your Earlier Challenges of the Decision or Action

7. **First appeal**
- Did you appeal the decision, file a grievance, or seek an administrative remedy?
- Yes No
- (a) If “Yes,” provide:
- (1) Name of the authority, agency, or court: _____

 - (2) Date of filing: _____
 - (3) Docket number, case number, or opinion number: _____
 - (4) Result: _____
 - (5) Date of result: _____
 - (6) Issues raised: _____

(b) If you answered “No,” explain why you did not appeal: _____

8. Second appeal

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

Yes No

(a) If “Yes,” provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered “No,” explain why you did not file a second appeal: _____

9. Third appeal

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

Yes No

(a) If “Yes,” provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered “No,” explain why you did not file a third appeal: _____

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

Yes No

If “Yes,” answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

Yes No

If “Yes,” provide:

- (1) Name of court: _____
- (2) Case number: _____
- (3) Date of filing: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

Yes No

If “Yes,” provide:

- (1) Name of court: _____
- (2) Case number: _____
- (3) Date of filing: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

(c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: _____

11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

Yes No

If "Yes," provide:

(a) Date you were taken into immigration custody: _____

(b) Date of the removal or reinstatement order: _____

(c) Did you file an appeal with the Board of Immigration Appeals?

Yes No

If "Yes," provide:

(1) Date of filing: _____

(2) Case number: _____

(3) Result: _____

(4) Date of result: _____

(5) Issues raised: _____

(d) Did you appeal the decision to the United States Court of Appeals?

Yes No

If "Yes," provide:

(1) Name of court: _____

(2) Date of filing: _____

(3) Case number: _____

- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____
- _____
- _____
- _____
- _____
- _____

12. Other appeals

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

- Yes No

If “Yes,” provide:

- (a) Kind of petition, motion, or application: _____
- (b) Name of the authority, agency, or court: _____

- (c) Date of filing: _____
- (d) Docket number, case number, or opinion number: _____
- (e) Result: _____
- (f) Date of result: _____
- (g) Issues raised: _____

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: _____

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

(b) Did you present Ground One in all appeals that were available to you?

Yes No

GROUND TWO:

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

(b) Did you present Ground Two in all appeals that were available to you?

Yes No

GROUND THREE:

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

(b) Did you present Ground Three in all appeals that were available to you?

Yes No

GROUND FOUR:

(a) Supporting facts (*Be brief. Do not cite cases or law.*):

(b) Did you present Ground Four in all appeals that were available to you?

Yes No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

Request for Relief

15. State exactly what you want the court to do:

Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: _____

Signature of Petitioner

Signature of Attorney or other authorized person, if any

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* 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.**

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI**

**APPLICATION TO PROCEED *IN FORMA PAUPERIS*
BY A PRISONER**

PETITIONER

V.

NO. _____

RESPONDENTS

I, _____, declare that I am the petitioner in the above-entitled proceeding; that, in support of my request to proceed without payment of fees under 28 U.S.C. §1915, I declare that I am unable to pay the fees for these proceedings or give security therefor and that I am entitled to the relief sought in the complaint.

In support of this application, I answer the following questions under penalty of perjury:

1. Are you currently incarcerated? Yes ___ No ___ (If "No" DO NOT USE THIS FORM)

If "Yes" state the place of your incarceration _____

2. Are you currently employed? Yes ___ No ___

a. If the answer is "Yes" state the amount of your pay. \$ _____

b. If the answer is "No" state the date of your last employment, the amount of your take-home salary or wages and pay period, and the name and address of your last employer _____

3. In the past twelve months have you received any money from any of the following sources?

a. Business, profession or other self-employment Yes ___ No ___

b. Rent payments, interest or dividends Yes ___ No ___

c. Pensions, annuities or life insurance payments Yes ___ No ___

d. Disability or workers compensation payments Yes ___ No ___

e. Gifts or inheritances Yes ___ No ___

f. Any other sources Yes ___ No ___

If the answer to any of the above is "Yes" describe each source of money and state the amount received from each during the past twelve months. (Attach an additional sheet if necessary.) _____

4. Do you own any cash or have money in a checking or savings account (including funds in prison accounts)

Yes ___ No ___

If "Yes" state the total amount. \$ _____

5. Do you own any real estate, stocks, bonds, notes, securities, other financial instruments, automobiles or other valuable property or assets (excluding ordinary household furnishings and clothing)? Yes ___ No ___

If the answer is yes, describe the property and state its approximate value. _____

6. List the persons who are dependent upon you for support; state your relationship to those persons; and indicate how much you contribute toward their support. _____

I understand that a false statement or answer to any question in this declaration will subject me to the penalties for perjury and I declare that this information is true and correct.

Signed this the _____ day of _____, 20_____.

Signature of Applicant

----- TO BE COMPLETED BY APPLICANT -----

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

I, _____ hereby direct and
(Name of Applicant) (Register Number)

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)

(Signature of Applicant)

**CERTIFICATE
(Prisoner Accounts Only)
TO COMPLETED BY AUTHORIZED OFFICER**

I certify that the applicant named herein has the sum of \$ _____ on account to his credit at the _____ institution where he is confined. I further certify that the applicant has the following securities to his credit according to the records of said institution: _____

I further certify that during the last six months applicant's average monthly balance was \$ _____
I further certify that during the last six months applicant's average monthly deposit was \$ _____

Signature of Authorized Officer of Institution