

INSTRUCTIONS FOR PERSONS FILING A PRO SE PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. §2241

This packet includes three copies of a form petition and two copies of an in forma pauperis motion. There are instructions to help you understand the forms and a little bit about Court procedures, but THE COURT CANNOT GIVE YOU LEGAL ADVICE. The Court may not accept your petition for filing unless you follow these instructions and provide the information requested in these forms.

Is this form for you?

Generally, §2241 should **not** be used to challenge a criminal conviction or sentence. State prisoners seeking to challenge a conviction or sentence can seek relief under 28 U.S.C. §2254. Federal prisoners seeking to challenge a conviction or sentence can seek relief under 28 U.S.C. §2255. This form is not designed for use by persons seeking to challenge a criminal conviction or sentence, nor by those seeking to challenge an immigration decision. It may be used by persons who wish to challenge the validity of their detention on other grounds (for example, challenges to the calculation of a release date). Persons in State custody should note that this Court only has jurisdiction over claims that they are in custody in violation of the laws or Constitution of the United States.

How to file a petition

To begin a lawsuit you must file an original and one copy of your petition with the court. You should keep a copy of the petition for your own records. The Court is not responsible for providing copies to you. ALL COPIES MUST BE IDENTICAL TO THE ORIGINAL.

Your petition must be legibly handwritten or typed. If you need more space to answer a question you may write on the back of the form or attach additional pages. All pages should be 8 ½" by 11".

Generally, the Respondent is the warden or administrator of the facility where you are detained. In some cases, there may be other respondents.

Answer the questions about related cases and prison grievances carefully. You may attach copies of decisions by other courts, grievances, administrative complaints, and responses to your petition. FAILING TO PROVIDE THE INFORMATION REQUESTED MAY RESULT IN YOUR PETITION NOT BEING FILED OR CAUSE DELAYS IN PROCESSING YOUR PETITION.

In your petition state the facts of your case. Focus on who, what, when, where.

Specify what relief you want the Court to order. The most common relief sought is an order that the petitioner be released. Certain other types of relief such as an order for a new hearing in front of an administrative agency may be available in particular cases. Money damages are **not** available in a habeas

corpus action.

When the forms are completed mail the original and one copy to: Clerk, United States District Court for the District of Maryland, 101 West Lombard Street, Baltimore, Maryland 21201.

How to ask for the filing fee to be waived

There is a fee of \$5.00 for filing this type of lawsuit. This must be paid at the time your petition is filed. If you are unable to pay the filing fee you may ask the Court to let you proceed in forma pauperis. The practice of this Court is that a motion for leave to proceed in forma pauperis will not be granted if, after paying the filing fee, you would have \$25.00 or more left in your institutional account. Attached are two copies of a motion and affidavit for leave to proceed in forma pauperis. One should be filed with your petition. The other is for your records.

Things to know about representing yourself

There are procedural rules which may apply to this action. Although there are no rules specifically governing habeas corpus petitions under 28 U.S.C. §2241, this Court usually applies the Rules Governing Habeas Corpus Cases Under Section 2254. The Federal Rules of Civil Procedure will apply in some circumstances, as well as the Local Rules of this Court.

Once your petition is received by the Court it will be reviewed and, if you have properly completed the forms and provided all necessary information, a case number and judge will be assigned. Everything that you receive from the Court about your case will have the case number on it. Everything that you send to the Court other than the petition and motion and affidavit to proceed in forma pauperis should have the case number on it.

Unless directed otherwise, all communications to the Court about your case should be addressed to:

Clerk of the Court
United States District Court
101 West Lombard Street
Baltimore, Maryland 21201

You must notify the Court in writing of any change in your address. Failure to do this may result in dismissal of your case.

After you file the petition no communication about your case should be sent directly to any judge. If you want to ask the Court to do something, you should file a motion. Pleadings and motions should be filed with the Clerk and a copy should be mailed to the attorney representing the respondent(s) or directly to the respondent(s) if he/she does not have an attorney. It is important to include a certificate of service on

anything you file after your petition showing when you mailed copies and to whom they were sent. The certificate of service appears at the end of the pleading or motion and looks like the sample below.

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 19__, a copy of this

(title of the document) _____, was mailed, postage prepaid, to

(name and address of the attorney or person to whom you sent it).

(your signature _____)

It is not necessary to state in the certificate of service that copies were sent to the Court or the Clerk.

Do not file any motions or memoranda that are longer than fifty pages unless you have received permission from the Court. Most motions and memoranda should be much shorter than fifty pages.

You do not have to file copies of exhibits that are already on file in the same case. For example, if the respondents in your case file an answer and attach as an exhibit to their motion a copy of a parole revocation decision, you do not have to attach a copy of that document to any motions you file. You may simply refer to the copy that is already in the file.

You must sign every pleading, motion, and memorandum that you file. You MAY NOT sign someone else's name, nor may you file anything on behalf of someone else.

FORM TO BE USED BY A PERSON FILING A PETITION FOR
WRIT OF HABEAS CORPUS UNDER 28 U.S.C. §2241

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

(Full name, date of birth, identification
number and address of the petitioner)

v.

Civil Action No. _____
(Leave blank. To be filled in by Court.)

(Full name and address of the respondent(s))

PETITION FOR WRIT OF HABEAS CORPUS

I. Background

A. Where are you detained?

_____ Federal Prison

_____ State Prison

_____ Local Jail or Detention Center

_____ Mental Health Facility

_____ Other, describe _____

B. If you have been convicted and sentenced, provide the following information:

1. Name and location of court which imposed sentence: _____

_____.

2. Your criminal case number(s): _____.

3. The date you were sentenced: _____.

4. The charges on which you were convicted: _____

_____.

C. If you are awaiting trial on criminal charges, provide the following information:

1. Name and location of court in which charges are pending: _____

_____.

2. Your criminal case number(s): _____.

3. List any hearing or trial dates which have been scheduled: _____

_____.

4. List the charges that are pending against you: _____

_____.

5. Your attorney's name, address and telephone number: _____

_____.

D. If you are detained in a mental health facility, provide the following information:

1. How were you committed?

_____ By a court for evaluation.

_____ By a court after being found not criminally responsible.

_____ Involuntary civil commitment.

_____ Other, explain, _____
_____.

2. When were you committed? _____.

II. Previous lawsuits

A. Have you filed other cases or motions in state or federal court dealing with the same facts as in this case?

YES [☐] NO [☐]

B. If you answered YES, describe that case(s) or motion(s) in the spaces below.

1. Type of case or motion: _____
_____.

2. Parties to the other case(s):

Petitioner: _____

Respondent(s): _____

3. Court (if a federal court name the district; if a state court name the city or

county): _____

4. Case No.: _____

5. Date filed: _____

6. Name of judge that handled the case: _____

7. Disposition (won, dismissed, still pending, on appeal): _____

8. Date of disposition: _____

III. Administrative proceedings

- A. If you are in a Division of Correction facility, did you file an administrative remedy procedure request under DCD 185-001, et seq.?

YES [] NO []

1. If you answered YES:

a. What was the result? _____

b. Did you appeal to the Commissioner?

YES [] NO []

2. If you answered NO to either of the questions above, explain why you did not file an administrative remedy procedure request or an appeal to the

Commissioner. _____

3. Did you file any other type of administrative complaint such as an appeal to the warden of an adjustment decision?

YES [] NO []

4. If you answered YES, explain what you filed and what was the result.

- B. If you are in a Division of Correction facility **or** Patuxent Institution, did you file a complaint with the Inmate Grievance Office?

YES [] NO []

1. If you answered YES:

a. What was the result? _____
_____.

b. Did you appeal to the Circuit Court?

YES [] NO []

c. What was the result? _____
_____.

d. Did you file an application for leave to appeal to the Court of Special Appeals?

YES [] NO []

e. What was the result? _____
_____.

C. If you are a state prisoner challenging a parole revocation decision, complete the following.

1. Date of revocation decision: _____.

2. Did you appeal the revocation decision to the Circuit Court?

YES [] NO []

3. If you answered YES, what was the date of the Circuit Court's decision and what was the decision?

_____.

4. Did you appeal the decision of the Circuit Court?

YES [] NO []

5. If you answered YES, what was the result and the date of the decision?

D. If you are in a Federal facility, did you attempt to resolve your complaint informally?

YES [] NO []

1. If you answered YES:

a. Did you file a formal complaint to the warden?

YES [] NO []

b. Did you appeal the warden's decision to the Regional Director?

YES [] NO []

c. Did you appeal the Regional Director's decision to the Office of General Counsel?

YES [] NO []

d. What was the result? _____

2. If you answered NO to any of the questions above, explain why you did not file an administrative complaint or appeal .

E. If you are a federal prisoner challenging a parole revocation decision, complete the following.

1. Date of revocation decision: _____.

2. Did you appeal the revocation decision to the National Appeals Board?

YES [☐] NO [☐]

3. If you answered YES, what was the date of the National Appeals Board's decision and what was the decision.

_____.

F. If you are not in a Division of Correction or Federal facility, is there a grievance procedure at your institution?

YES [☐] NO [☐]

If your answer is YES:

1. Did you file a grievance?

YES [☐] NO [☐]

2. If you filed a grievance what was the result? _____

3. If you did not file a grievance explain why not? _____

IV. Statement of claim

(Briefly state the facts of your case. Include dates, times, and places. Explain why you believe you are improperly detained. If you are making a number of related claims, number and explain each claim in a separate paragraph.)

V. Relief

(State briefly what you want the Court to do for you)

I DECLARE UNDER THE PENALTIES OF PERJURY THAT THE INFORMATION ABOVE IS TRUE AND CORRECT.

SIGNED THIS _____ day of _____, _____.

(original signature of petitioner)

(address of petitioner)

FORM TO BE USED BY A PERSON SEEKING LEAVE TO PROCEED
IN FORMA PAUPERIS IN A HABEAS CORPUS ACTION

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

(name of petitioner)

v.

Civil Action No. _____
(Leave blank. To be filled in by Court.)

(name of respondent)

MOTION AND AFFIDAVIT TO PROCEED IN FORMA PAUPERIS

I, _____, declare that I am the petitioner in this case. I understand that the fee for filing this type of case is \$5.00. Because of my poverty, I am unable to pay the filing fee and costs of this action at this time, nor am I able to give security therefor.

I believe that I have a meritorious complaint and am entitled to relief in these proceedings.

In support of this motion, I answer the following questions:

1. Are you presently employed in an institutional job or other assignment that results in compensation of any sort, including work release?

YES [] NO []

- a. If you answered YES, list your employer or assignment and the amount of your wages.

Employer/assignment: _____

Monthly gross wages: _____

Monthly net wages: _____

- b.** If you answered NO, state the date of your last employment or assignment, the name of your employer or assignment, and the amount of wages you received.

Date: _____

Employer/assignment: _____

Monthly gross wages: _____

Monthly net wages: _____

- 2.** Within the past twelve months have you received any income from: 1) settlements, judgments, or monetary awards from a court; 2) Social Security, public assistance, workers' compensation or disability payments; 3) a business, profession or other form of self-employment; 4) rent, interest or dividends; 5) retirement, annuity, pension or insurance payment; 6) gifts or inheritances; 7) or any other sources?

YES [☐] NO [☐]

If you answered YES, list the amount received, date it was received, and the source.

<u>Amount</u>	<u>Date received</u>	<u>Source</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

- 3.** How much money do you have in your institutional account? _____
- 4.** How much money do you have in checking, savings or other accounts outside of the institution? _____
- 5.** Do you own or have any interest in any real estate, stocks, bonds, notes, automobiles, or other valuable property (not including ordinary household furnishings and clothes)?

YES [☐] NO [☐]

If you answered YES, list the value and describe each item.

<u>Value</u>	<u>Description</u>
_____	_____
_____	_____
_____	_____
_____	_____

6. List everyone (including businesses and the government) that you owe money and the amount that you owe.

<u>Creditor</u>	<u>Total debt</u>	<u>Monthly payment</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

7. List any other major monthly expenses that you are actually paying.

<u>Description</u>	<u>Monthly payment</u>
_____	_____
_____	_____

I DECLARE UNDER THE PENALTIES OF PERJURY THAT THE INFORMATION ABOVE IS TRUE AND CORRECT.

(date)

(original signature of petitioner)