

INSTRUCTIONS FOR FILING A HABEAS CORPUS PETITION UNDER 28 U.S.C. §2241

- These instructions are meant only to help you understand the forms and to explain some of the Court's procedures.
- The Court cannot give you legal advice or provide you with copies of cases or other legal materials.
- This packet contains two copies of a petition form and two copies of a motion to proceed in forma pauperis. You only have to file one copy of each with the Clerk. The extra copies are provided so that you may use them to make a copy of what you are filing.
- The Court does not have to provide copies to you and anything you file with the Court becomes a part of the official Court record.

Asking for the Filing Fee to be Waived

- The filing fee for a civil lawsuit under 28 U.S.C. § 2241 in the United States District Court for the District of Maryland is \$5.00. The filing fee must be paid when you file the petition or you must file a motion to proceed in forma pauperis. A petition filed without either the filing fee or a motion to proceed in forma pauperis does not have to be accepted for filing.
- PLEASE NOTE: The affidavit you file in support of your motion to proceed in forma pauperis is a statement made UNDER OATH and must be accurate. You may be required to pay the full filing fee or your case may be dismissed if you do not include all requested information or the information provided is not correct.
- **IS THIS FORM FOR YOU?**
 - This form should be filed in the jurisdiction where you are detained.
 - This form should NOT be used if you are challenging your criminal conviction or your sentence.
 - Federal criminal convictions are challenged using 28 U.S.C. §2255 forms.
 - State criminal convictions are challenged using 28 U.S.C. §2254 forms.
 - Use this form to challenge the manner in which your sentence is being carried out or to challenge your detention in a facility other than a prison. For example, you may challenge how your release date is being calculated, whether you are allowed assignment to a federal halfway house, or whether you should be confined in a mental health facility.

Filling out the Petition Form

- You may either type your petition OR handwrite it so long as it is easily read. Documents filed with the Court that cannot be read do not have to be accepted for filing.
- If you need more space to provide any of the information requested, attach additional sheets of paper and indicate that you have done so on the petition form.
- Generally, the Respondent is the Warden or Administrator of the Facility where you are confined.
- Answer the questions on the petition form carefully and provide as much information as you can.
 - Some of the questions may not apply to you; simply leave them blank and move on.
 - You may attach copies of grievances you filed, decisions made in other courts or by other administrative agencies, or other relevant documents.
- When writing your Statement of Claim (Section IV, page 11 of the petition) you should:
 - Include all facts and allegations you believe support your claim that you should not be detained as you currently are being detained.
 - For example:
 - Where are you detained? What is your current release date?
 - What is the policy/rule/decision that you are challenging? Why is your detention unlawful?
 - What should be done differently and why?
 - Why is your sentence improperly calculated?
- In the last section (Section V) you should state what you want the Court to do in the event judgment is entered in your favor. Money damages ARE NOT available in a habeas corpus action.
- You **must** sign the petition.
- Mail your completed petition to:

The Clerk of the Court
101 W. Lombard Street
Baltimore, Maryland 21201

Representing Yourself

- Your petition will be reviewed by the Court to make certain it is filled out properly. If additional information is needed, you will be notified.
- A judge will be assigned and a case number will be provided for your case.
 - PUT YOUR CASE NUMBER ON ALL DOCUMENTS you send to the Clerk concerning your case.
- Everything you file in your case should be addressed to:

The 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 while your case is pending. Failing to do so may result in dismissal of your petition.
- DO NOT try to communicate directly with the judge assigned to your case.
- If you want to request that something be done in your case you must file a motion or other pleading with the Clerk.
- Exhibits or other documents already filed by the other party do not need to be filed again; rather, simply refer to the document.
- You must sign all of the documents you file.
- Unless otherwise directed by the Court, you do not need to send a copy of everything you file in your case to counsel for Respondent, because the attorney can view your original submissions electronically from the docket.

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)