GENERAL ORDER NO. 97-16

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS
AUG 15 1997
DAVID J. MALAND, CLERK
BY DEPUTY

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

ORDER ADOPTING NEW FORMS FOR PRISONERS
FILING ACTIONS UNDER 42 U.S.C. §1983

It is hereby ORDERED, effective immediately, that this court adopt a prescribed form for prisoners filing complaints under the Civil Rights Act, 42 U.S.C. §1983. The prescribed form is attached hereto as Exhibit A. Complaints may be accepted and filed in other forms at the discretion of the court; however, completion of the prescribed form may be required as an auxiliary pleading.

It is further ORDERED, effective immediately, that this court adopt a prescribed form for prisoners seeking to proceed *in forma pauperis* under 28 U.S.C. §1915. The prescribed form is attached hereto as Exhibit B.

It is finally ORDERED, that General Order 96-11 is rescinded.

So **ORDERED and SIGNED** this 11th day of August, 1997.

FOR THE COURT:

Richard A. Schell
RICHARD A. SCHELL
CHIEF JUDGE

N:\PRISONER\Gen'l Order adopting Standardized 1983 Complaint and IFP forms.wpd

UNITED STATES DISTRICT COURT
OFFICE OF THE STAFF ATTORNEYS
EASTERN DISTRICT OF TEXAS

DAVID J. MALAND
CLERK

211 W. FERGUSON
TYLER, TEXAS 75702

Re: Your Request for Forms for Filing a Civil Rights Complaint

The forms you requested are enclosed. Please read the forms and follow the instructions very carefully. Make certain you have answered all the questions and have signed in all the required places.

The filing fee for this type of civil action is $350. If you pay the $350 now, you must submit your check or money order made payable to: Clerk, U. S. District Court, together with your complaint. All inmates must pay the $350 filing fee, although the Court will permit you to pay the fee according to a payment plan established by the Court.

If you are unable to pay the filing fee and service costs for this complaint, you may request the Court to allow you to proceed *in forma pauperis [IFP]* (application is enclosed). If you use this form, you must answer each and every question and sign the form. If you are an inmate, you must obtain a certified print out of your trust fund account from the facility in which you are incarcerated. Texas prison inmates must submit a certified *in forma pauperis* data sheet, which may be obtained from the law library on your unit. DO NOT SEND the COMPLAINT WITHOUT the completed and CERTIFIED IFP DATA SHEET Otherwise, your case cannot be processed and will be delayed.

Please give special attention to the following information:

PARTIES: The parties to a law suit are the plaintiff (the person who is filing the suit) and the defendant (the person who is being sued). List the full names of each defendant on page 1. If you cannot obtain the full names, supply an initial or state the name is unknown. On page 2, list the defendant again with a full address. If there is more than one defendant, the defendants should be listed in the same order as on page 1.

If there is more than one plaintiff, each plaintiff must be listed on page 1 and must sign the complaint on the last page. Each plaintiff must also submit a separate and completed IFP form.

STATEMENT OF CLAIM: It is very important you state a claim against each named defendant. Give only the facts without legal arguments or case law. Do not submit exhibits or evidence with your complaint. Save those items for any hearing that may be set.

FILING: Submit only the original complaint to the Court. Keep a copy for your records. Once the original is filed, it cannot be returned unless ordered by the Court. Use a typewriter or black ink. Your complaint must be legible. Do not use legal size paper. Use standard size paper (8 ½ x 11 inches). Do not write on the reverse side of any page. Leave space (margins) at each side and on the top and bottom of the page.

It is your responsibility to keep the Court informed of your current address. If you are transferred or released, you must file a "Notice of Change of Address" with the Clerk. You must also certify that you have sent the notice to the defendant's attorney (if any). Failure to follow this rule may result in your case being dismissed.

VENUE: Your complaint can be brought in this Judicial District if at least one of the defendants reside in this district or the cause of action arose in this district. If not, you are in the wrong court. Submitting your complaint to the wrong court will only delay the proceedings.

Division	Counties	Prison Units	Forms Sent to:
I. Beaumont	Hardin Jasper Jefferson Liberty Newton Orange	Cleveland Gist Goodman Henley Hightower LeBlanc Plane Stiles	Clerk, U. S. District Court Pro Se Division 300 Willow Street Beaumont, TX 77701
II. Marshall	Camp Cass Harrison Marion Morris Upshur		Clerk, U. S. District Court Pro Se Division 211 W. Ferguson, Room 106 Tyler, TX 75702
III. Paris	Delta Fannin Hopkins Lamar Red River	Cole Choice Moore	Clerk, U. S. District Court Pro Se Division 211 W. Ferguson Room 106 Tyler, TX 75702
IV. Sherman	Collin Cooke Denton Grayson		Clerk, U. S. District Court Pro Se Division 101 E. Pecan Sherman, TX 75090
V. Texarkana	Bowie Franklin Titus	Telford	Clerk, U. S. District Court Pro Se Division 101 E. Pecan Sherman, TX 75090
VI. Tyler	Anderson Cherokee Gregg Henderson Rains Rusk Smith Van Zandt Wood	Beto I Bradshaw Coffield Gurney Hodge Johnston Michael Billy Moore Powledge Skyview	Clerk, U. S. District Court Pro Se Division 211 W. Ferguson, Room 106 Tyler, TX 75702
VII. Lufkin	Angelina Houston Nacogdoches Polk Sabine San Augustine Shelby Trinity Tyler	Diboll Correctional Center Diboll Unit Eastham Polunsky Lewis	Clerk, U. S. District Court 104 North Third Street Lufkin, TX 75901

Finally, do not write letters to the clerk or the Judges asking for advice. The Court can only act on motions and does not advise litigants as to the law or procedures. Thank you for your cooperation.

IN THE UNITED STATES DISTRICT COURT
FOR THE _____ DISTRICT OF TEXAS
_____ DIVISION

_____
Plaintiff's name and ID Number

_____
Place of Confinement

CASE NO._____
(Clerk will assign the number)

v.

_____
Defendant's name and address

_____
Defendant's name and address

_____
Defendant's name and address
(DO NOT USE "ET AL.")

INSTRUCTIONS - READ CAREFULLY

NOTICE:

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.

2. Your complaint must be legibly handwritten, in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, **DO NOT USE THE REVERSE SIDE OR BACK SIDE OF ANY PAGE.** ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.

3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.

4. When these forms are completed, mail the original and one copy to the Clerk of the United States Court for the appropriate District of Texas in the Division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. The list labeled as "VENUE LIST" is posted in your unit law library. It is a list of the Texas prison units indicating the appropriate District Court, the Division and an address list of the Divisional Clerks.

FILING FEE AND IN FORMA PAUPERIS

1. In order for your complaint to be filed, it must be accompanied by the filing fee of $350.00.

2. If you do not have the necessary funds to pay the filing fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis (IFP)*, setting forth information to establish your inability to prepay the fees and costs or give security therefor. You must also include a current six (6) month history of your Inmate Trust Account. You can acquire the application to proceed IFP and appropriate Inmate Account Certificate from the law library at your prison unit.

3. 28 U.S.C. 1915, as amended by the Prison Litigation Reform Act of 1995 (PLRA), provides, "...if a prisoner brings a civil action or files an appeal *in forma pauperis,* the prisoner shall be required to pay the full amount of a filing fee." Thus, the Court is required to assess and, when funds exist, collect, the entire filing fee or an initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis* , the Court will apply 28 U.S.C. 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from your Inmate Account, until the entire $350 filing fee has been paid.

4. If you intend to seek *in forma pauperis* status, then do not send your complaint without an Application to Proceed IFP, and the Certificate of Inmate Trust Account. Complete all the essential paperwork before submitting it to the Court.

5. **The complaint can not exceed 20 pages which includes all attachments.**

CHANGE OF ADDRESS

It is your responsibility to inform the Court of any change of address and its effective date. Such notice should be marked **"NOTICE TO THE COURT OF CHANGE OF ADDRESS"** and shall not include any motion (s) for any other relief. Failure to file a NOTICE TO THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedure.

I. PREVIOUS LAWSUITS:

A. Have you filed *any* other lawsuits in state or federal court relating to your imprisonment? ___YES ___NO

B. If your answer to "A" is "yes," describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)

1. Approximate date of filing lawsuit:_____
2. Parties to previous lawsuit:

   Plaintiff(s)_____

   Defendant(s)_____
3. Court: (If federal, name the district; if state, name the county.) _____
4. Docket Number:_____
5. Name of judge to whom case was assigned:_____

6. Disposition: (Was the case dismissed, appealed, still pending?)

_____

7. Approximate date of disposition:_____

II. PLACE OF PRESENT CONFINEMENT:_____

III. PARTIES TO THIS SUIT:

A. Name and address of plaintiff:_____

_____

_____

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Defendant #1: _____

_____

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

_____

Defendant #2:_____

_____

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

_____

Defendant #3:_____

_____

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

_____

Defendant #4:_____

_____

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

_____

Defendant #5:_____

_____

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

_____

IV. STATEMENT OF CLAIM:

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember that the complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

RELIEF: State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

_____

_____

V. GENERAL BACKGROUND INFORMATION:

A. State, in complete form, all names you have ever used or been known by including any and all aliases:

_____

B. List all TDCJ-ID identification numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you, if known to you.

_____

VI. SANCTIONS:

A. Have you been sanctioned by any court as a result of any lawsuit you have filed? ____YES ____NO

B. If your answer is "yes", give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (if federal, give the district and division): _____
2. Case Number:_____
3. Approximate date sanctions were imposed:_____
4. Have the sanctions been lifted or otherwise satisfied? ____YES ____NO

C. Has any court ever warned or notified you that sanctions could be imposed? _____YES____NO

D. If your answer is "yes", give the following information for every lawsuit in which warning was imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed warning (if federal, give the district and division): _____

2. Case Number:_____

3. Approximate date warnings were imposed:_____

Executed on: _____
DATE

_____

_____
(Signature of plaintiff)

PLAINTIFF'S DECLARATIONS

1. I declare under penalty of perjury all facts presented in this complaint and attachments thereto are true and correct.
2. I understand if I am released or transferred, it is my responsibility to keep the Court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.
3. I understand that I must exhaust all available administrative remedies prior to filing this lawsuit.
4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions in a Court of the United States while incarcerated or detained in any facility, which lawsuits were dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger of serious physical injury.
5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire $350 filing fee and costs assessed by the Court, which shall be deducted in accordance with the law from my inmate account by my custodian until the filing fee is paid.

Signed this _____ day of _____, 20 _____.
(Day) (month) (year)

_____

_____
(Signature of plaintiff)

WARNING: The Plaintiff is hereby advised any false or deliberately misleading information provided in response to the following questions will result in the imposition of sanctions. The sanctions the Court may impose include, but are not limited to monetary sanctions and/or the dismissal of this action with prejudice.

IN THE UNITED STATES DISTRICT COURT
FOR THE _____ DISTRICT OF TEXAS
_____ DIVISION

_____
Plaintiff's name and ID Number

_____
Place of Confinement

CASE NO._____
(Clerk will assign the number)

v.

APPLICATION TO PROCEED
IN FORMA PAUPERIS

_____
Defendant's name and address

I, _____, declare, depose, and say I am the Plaintiff in the above entitled case. In support of my motion to proceed without being required to prepay fees, costs, or give security therefor, I state because of my poverty, I am unable to pay in advance the filing fee for said proceedings or to give security for the filing fee. I believe I am entitled to relief.

I, further declare the responses which I have made to the questions and instructions below are true.

1. Have you received, within the last 12 months, any money from any of the following sources?

a. Business, profession or from 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. Family or friends?	Yes☐	No☐
f. Any other sources?	Yes☐	No☐

If you answered **YES** to any of the questions above, describe each source of money and state the amount received from each during the past 12 months.

_____

_____

2. Do you own cash, or do you have money in a checking or savings account, including any funds in prison accounts?

Yes☐ No☐

If you answered **YES**, state the total value of the items owned.

_____

_____

3. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property, excluding ordinary household furnishings and clothing?

Yes☐ No☐

If you answered **YES**, describe the property and state its approximate value.

_____

_____

I understand a false statement in answer to any question in this affidavit will subject me to penalties for perjury. I declare (certify, verify, or state) under penalty of perjury that the foregoing is true and correct (28 U.S.C. §1746).

Signed this the _____ day of _____, 200___.

_____

Signature of Plaintiff ID Number

YOU MUST ATTACH A CURRENT SIX (6) MONTH HISTORY OF YOUR INMATE TRUST ACCOUNT. YOU CAN ACQUIRE THE APPROPRIATE INMATE ACCOUNT CERTIFICATE FROM THE LAW LIBRARY AT YOUR PRISON UNIT.