

FOR THE EASTERN DISTRICT OF TEXAS

FILED
U. S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

IN THE MATTER OF FEDERAL §
PRISONERS FILING PETITIONS §
FOR WRITS OF HABEAS CORPUS §
UNDER 28 U.S.C. §2241

APR 01 1988

MURRAY L. HARRIS, CLERK
By
Deputy *Rita Robbins*

GENERAL ORDER

Acting by consent of the judges of this court, it is ORDERED, effective immediately, that this court adopt a prescribed form for federal prisoners filing petitions for writs of habeas corpus under 28 U.S.C. §2241. To facilitate this, the following rules are also adopted:

1. The prescribed form for a Petition for Writ of Habeas Corpus for Federal Prisoners filing under 28 U.S.C. §2241 is attached hereto as Exhibit A. Complaints may be accepted and filed on other forms at the discretion of the court; however, completion of the prescribed form may be required as a pleading auxiliary, either before or after filing.
2. The court also adopts, as a mandatory form, the Application to Proceed In Forma Pauperis (AO-240) which is attached hereto as Exhibit B. No complaint will be accepted for filing in forma pauperis, except at the discretion of the court, until the application on the prescribed form is received. All such applications, to be valid, must be certified by an authorized official of the institution wherein the petitioner is detained and must contain a statement of either the petitioner's average prisoner account balance over the preceding six-month period or the petitioner's total income received over the preceding six-month period.

3. Verification of the petition and the application to proceed in forma pauperis is required before the pleading will be accepted. Pleadings may be verified, pursuant to 28 U.S.C. §1746, by signature under penalty of perjury or under oath before a notary public or other person authorized by law to administer an oath.
4. In the event that a petition for writ of habeas corpus under 28 U.S.C. §2241 is received but is determined by the Clerk to be technically deficient so as to fail to meet the requirements for filing in this court, the Clerk is hereby authorized to return the original and all copies received of said petition to the petitioner for correction of all such technical deficiencies without obligation on the part of the Clerk to retain a copy of said petition pending its return.

SIGNED this 1st day of April, 1988, on behalf of the court.


Chief Judge

UNITED STATES DISTRICT COURT

OFFICE OF THE CLERK
EASTERN DISTRICT OF TEXASMURRAY L. HARRIS
CLERK211 W. FERGUSON
TYLER, TEXAS 75702

Re: Your Request for Forms for Filing a Petition for Writ of Habeas Corpus

In response to your inquiry, the forms you have requested for prisoners in filing a petition for writ of habeas corpus are enclosed.

Please read the forms and follow the instructions **VERY** carefully. Make certain that you have answered **ALL** the questions and that you have signed in all the required places.

The filing fee for this type of civil action is \$5.00. At the time you submit the petition, you may submit your check or money order made payable to:

Clerk, U.S. District Court.

In addition, certain petitions are served to the respondents by the United States Marshal with a usual charge of \$3.00 for each person served. **DO NOT** submit payment for the service at this time. After the case is filed and a judicial order is entered for service to the respondent, the U. S. Marshal Service will notify you by letter how you may prepay the fee for this service if such is required.

If you are unable to pay the filing fee and service costs for this petition, you may ask the Court to allow you to proceed in forma pauperis. An application for this purpose is included with your forms. If you use this form, make certain that **each and every** question is properly answered, that you sign the form, and that the certificate portion is completed and signed by an authorized official of your institution. If you are an inmate of the Texas Department of Corrections, it is our understanding that the type of information required in the certificate is only available in Huntsville. The form must be submitted with a properly notarized release form through appropriate channels to E&R Accounting in Huntsville so that the certificate may be certified by an authorized person.

Submit only the **original** petition to this court. If we need copies, we will make them. The papers you submit need to be reproducible. If possible use typewriter or black ink. If this is not available, submit only originals which are clearly legible.

The use of legal-size paper has been eliminated. Standard size is now 8- $\frac{1}{2}$ x 11 inches. If you must submit additional pages, use only this size. **DO NOT** write on the reverse side of any pages.

Petitions which do not conform to these instructions will be returned with a notation as to the deficiency. You should hear about acceptance of your case in about six weeks. Please wait that long before inquiring. Be assured that we make every effort to handle each case in the order in which it is received.

Any forms returned should be sent to: Clerk, U. S. District Court
211 West Ferguson Street, Room 309
Tyler, TX 75702

FORM TO BE USED BY FEDERAL PRISONERS IN FILING A PETITION FOR WRIT OF HABEAS CORPUS
UNDER 28 USC 2241

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

Petitioner

(Full name under which you were convicted;
prison number; and full mailing address.)

vs.

CIVIL ACTION NO. _____

Respondent

(Name of Warden or other authorized person
having custody of petitioner.)

PLEASE COMPLETE THE FOLLOWING. READ THE ENTIRE PETITION BEFORE FILLING IT OUT. ANSWER
THOSE QUESTIONS WHICH PERTAIN TO YOUR TYPE OF CLAIM.

1. This petition concerns: (Check appropriate blank.)

- _____ a conviction
- _____ a sentence (CAUTION: If you are attacking a sentence imposed under a federal
judgment, you must first file a direct motion under 28
U.S.C. §2255 in the federal court which entered the
judgment.)
- _____ jail or prison conditions
- _____ prison discipline
- _____ a parole problem
- _____ other. State briefly: _____

2. Place of detention: _____

3. Have you filed previous petitions for habeas corpus, motions under 28:2255, or any other applications, petitions or motions with respect to this conviction?

_____ yes _____ no

If your answer above is "Yes," give the following information:

a. Name of Court: _____

b. Nature of proceeding: _____

c. Grounds raised: _____

d. Result: _____

e. Date of Result: _____

f. Citation or number of any written opinion or order entered pursuant to each such disposition: _____

4. If you did not file a motion under Section 2255 of Title 28, U.S.C., or if you filed such a motion and it was denied, state why your remedy by way of such motion is inadequate or ineffective to test the legality of your detention:

5. Are you presently represented by counsel? _____ Yes _____ No

If so, name, address and phone number of counsel: _____

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

7. Indictment or case number, if known: _____

8. Offense or offenses for which sentence was imposed: _____

9. Date upon which sentence was imposed and the terms of the sentence: _____

10. When was a finding of guilty made? (Check one.)

- _____ After a plea of guilty
- _____ After a plea of not guilty
- _____ After a plea of nolo contendere

11. If you were found guilty after a plea of not guilty, was that finding made by:

- _____ A jury
- _____ A judge without a jury

12. Did you appeal from the judgment of conviction or the imposition of sentence?

- _____ Yes
- _____ No

13. If you did appeal, give the following information for each appeal:

- a. Name of Court: _____
- b. Result: _____
- c. Date of Result: _____
- d. Citation or number of opinion: _____
- e. Grounds raised: (List each one.)

Note: If you appealed more than once, attach an additional sheet of the same size and give all the information requested above in question No. 13, a through e. Do not write on the reverse of pages.

14. State **CONCISELY** every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary, attach a single page behind this page.

CAUTION: If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

a. Ground one: _____

Supporting **FACTS:** (Tell your story **BRIEFLY** without citing cases or law. You are **CAUTIONED** that you must state facts, not conclusions, in support of your grounds. A rule of thumb to follow is--who did exactly what to violate your rights at what time or place.)

b. Ground two: _____

Supporting **FACTS:** _____

c. Ground three: _____

Supporting **FACTS:** _____

15. If this petition concerns jail or prison conditions, prison discipline, a parole problem, or other cause under 28:2241, answer the following:

a. Did you present the facts relation to your present complaint in the internal prison grievance procedure?

_____ Yes _____ No

(1) If your answer to "a" above is "yes," what was the result? _____

(2) If your answer to "a" above is "no," explain: _____

b. Did you present your claim to the Bureau of Prisons or other federal agency for administrative action?

_____ Yes _____ No

(1) If your answer is "yes," state the date such claim was submitted and what action, if any, has been taken.

(2) If your claim has been acted on, attach copies of any correspondence you have received from the Bureau of Prisons or other federal agency concerning your claim.

c. STATEMENT OF CLAIM: State here as briefly as possible the facts of your case. Do not give any legal arguments or cite any cases or statutes. Attach extra pages of the same size as this page if necessary. Do not write on the reverse side.

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11. If you were found guilty after a plea of not guilty, was that finding made by:

_____ A jury

_____ A judge without a jury

12. Did you appeal from the judgment of conviction or the imposition of sentence?

_____ Yes

_____ No

13. If you did appeal, give the following information for each appeal:

a. Name of Court: _____

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United States District Court

EASTERN

DISTRICT OF

TEXAS

APPLICATION TO PROCEED IN FORMA PAUPERIS, SUPPORTING DOCUMENTATION AND ORDER

v.

CASE NUMBER:

I, _____, declare that I am the *(check appropriate box)*

petitioner/plaintiff

movant (filing 28 U.S.C. 2255 motion)

respondent/defendant

other

in the above-entitled proceeding; that, in support of my request to proceed without being required to prepay fees, cost or give security therefor, I state that because of my poverty, I am unable to pay the costs of said proceeding or give security therefor; that I believe I am entitled to relief. The nature of my action, defense, or other proceeding or the issues I intend to present on appeal are briefly stated as follows:

In further support of this application, I answer the following questions.

1. Are you presently employed? Yes No

a. If the answer is "yes," state the amount of your salary or wages per month, and give the name and address of your employer. (list both gross and net salary)

b. If the answer is "no," state the date of last employment and the amount of the salary and wages per month which you received.

2. Have you received within the past twelve months any money from any of the following sources?

a. Business, profession or other 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 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.

3. Do you own any cash, or do you have money in checking or savings accounts?

Yes No (Include any funds in prison accounts.)

If the answer is "yes," state the total value of the items owned.

4. Do you own or have any interest in any real estate, stocks, bonds, notes, automobiles or other valuable property (excluding ordinary household furnishings and clothing)?

Yes No

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

5. 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 declare under penalty of perjury that the foregoing is true and correct.

Executed on _____

(Date)

Signature of Applicant

CERTIFICATE

(Prisoner Accounts Only)

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 likewise has the following securities to his credit according to the records of said institution: _____

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

** MAY SUBSTITUTE "TOTAL INCOME" DURING LAST SIX MONTHS. IF SO, PLEASE INDICATE THIS CHANGE.

Authorized Officer of Institution

ORDER OF COURT

The application is hereby denied

United States Judge

Date

The application is hereby granted. Let the applicant proceed without prepayment of cost or fees or the necessity of giving security therefor.

United States Judge
or Magistrate

Date