

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA**

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

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**.

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*).

The petition must be legibly handwritten or typewritten and signed by the petitioner under penalty of perjury. If you make a false statement of material fact, you may be prosecuted for perjury.

All questions must be answered concisely in the proper space on the form. If needed, you may attach additional pages. If you attach additional pages, number the pages and identify which section of the petition is being continued. Do NOT write on the back of any page.

In order for your petition to be filed, it must be accompanied by the \$5.00 filing fee. If you are unable to pay the filing fee, you may petition the court to proceed as an indigent party. An Application to Proceed *In Forma Pauperis* is included with this petition.

No more than one petitioner may be named in a petition. Each petitioner must file a separate petition and Application to Proceed *In Forma Pauperis* or filing fee. Your petition may be brought in this court **only** if you are incarcerated in one of the following counties geographically located in the United States District Court for the Northern District of Alabama: BIBB, BLOUNT, CALHOUN, CHEROKEE, CLAY, CLEBURNE, COLBERT, CULLMAN, DEKALB, ETOWAH, FAYETTE, FRANKLIN, GREENE, JACKSON, JEFFERSON, LAMAR, LAUDERDALE, LAWRENCE, LIMESTONE, MADISON, MARION, MARSHALL, MORGAN, PICKENS, SHELBY, ST. CLAIR, SUMTER, TALLADEGA, TUSCALOOSA, WALKER, or WINSTON.

You must include in this petition all grounds for relief and all facts supporting such grounds for relief. If you fail to do so, you may be barred from presenting additional grounds at a later date.

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

Mail the original petition and the filing fee of \$5.00 or an Application to Proceed *In Forma Pauperis* to the following address: Clerk's Office, United States District Court, Northern District of Alabama, Room 140, Hugo L. Black U.S. Courthouse, 1729 5th Avenue North, Birmingham, AL 35203-2195 or Clerk's Office, United States District Court, Northern District of Alabama, 101 Holmes Avenue, Huntsville, AL 35801.

(b) Docket number of criminal case: _____

(c) Date of sentencing: _____

Being held on an immigration charge

Other (*explain*) _____

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 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 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 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? _____

(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 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, if any

FOR USE BY INCARCERATED PERSONS

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA**

APPLICATION TO PROCEED IN FORMA PAUPERIS

Declaring that the personal and financial information I have given below is true and correct, I apply to this court for authority to proceed with this case without prepayment of fees, costs, or security.

1. Your full name: _____
Present mailing address: _____

2. Are you presently employed? Yes No
If the answer is "Yes," give the name and address of your employer and the amount of your usual monthly salary or wages.
Name and Address: _____

Amount of earnings: \$ _____ per (*specify pay period*) _____

If the answer is "No," give the name and address of your last employer, when you last worked, and the amount of the monthly salary or wages you were receiving.

Name and Address: _____

Date last worked: _____

Amount of earnings: \$ _____ per (*specify pay period*) _____

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

(a) Business, profession, or any form of self-employment?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(b) Interest, dividends, rents or investment income of any kind?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(c) Pensions, annuities, or life insurance payments?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(d) Gifts or inheritances?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(e) Any other sources?	<input type="checkbox"/> Yes	<input type="checkbox"/> 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: _____

4. Do you own cash, or do you have any money in any checking or saving accounts, including your prison or jail account? Yes No

If the answer is "Yes," state the total amount: \$_____

5. Do you own any real estate, stocks, bonds, notes, automobiles, boats, or other valuable property (excluding ordinary household items 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, stating your relationship to them and how much you contribute toward their support:_____

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

Dated:_____

SIGNATURE OF PETITIONER

ADDRESS

PRISONER NUMBER

★★★ IMPORTANT NOTICE ★★★

Your application to proceed *in forma pauperis* is NOT COMPLETE and WILL NOT BE CONSIDERED by the court unless the page entitled "INFORMATION REGARDING PRISONER ACCOUNTS" is properly completed and certified.

INFORMATION REGARDING PRISONER ACCOUNTS

The Prison Litigation Reform Act, Pub. L. No. 104-134, § 804, requires a prisoner seeking to proceed *in forma pauperis* to submit information regarding his prison or jail trust account for the six (6) months preceding the filing of the complaint. This information must be obtained from the appropriate official of each prison or institution at which the prisoner is or was confined within the past six (6) months. This information **must** be certified by prison or jail personnel and **must** include **both** the total deposits made to the prisoner's account each and every month for the preceding six (6) months and the average monthly balance in the account each and every month during the preceding six (6) months. Information for **six (6) full months** must be provided.

CERTIFICATION

I hereby certify that prisoner _____ has been incarcerated in this institution since _____, _____, and that the prisoner has the sum of \$_____ in his/her prison or jail trust account on this the _____ day of _____. I further certify that the information provided below is true and correct.

	<u>Month/Year</u>	<u>Total Deposits Received</u>	<u>Average Account Balance</u>
Month 1	_____	\$_____	\$_____
Month 2	_____	\$_____	\$_____
Month 3	_____	\$_____	\$_____
Month 4	_____	\$_____	\$_____
Month 5	_____	\$_____	\$_____
Month 6	_____	\$_____	\$_____
Current month (if less than full month)	_____	\$_____	\$_____

Dated: _____

Signature of Authorized Officer of Institution

Name of Institution