

**PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241 –  
IMMIGRATION CASES  
INFORMATION SHEET**

**This sheet contains some of the Court’s rules and procedures that must be followed to file a petition under 28 United States Code (U.S.C.) Section 2241 challenging whether your immigration detention is legal. The “2241 Immigration Petition for Writ of Habeas Corpus” form is available on the “Forms” page of the Court’s website. This information sheet is meant to be used for informational purposes only and is not legal advice.**

- 1. Who Should Use This Form.** You should use this form if you are in custody, detained, paroled, restrained by an order of an administrative tribunal or court, or otherwise subject to official restraint on your freedom and liberty because of an Immigration matter.
- 2. Who Should Not Use This Form.** You should **not** use this form if:
  - a. You are charged with or convicted of a criminal offense, and you wish to challenge the process pretrial, or post-trial, or how 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);
  - b. 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); or
  - c. You are challenging the validity of a state court judgment of conviction or sentence (these challenges are generally raised in a petition under 28 U.S.C. § 2254).
- 3. Preparing the Petition.** The petition must be typed or neatly written, and you must sign and date it under penalty of perjury. A false statement may lead to prosecution.
- 4. Answer all the questions.** You may file this form along with more pages if necessary. If you do not fill out the form properly, you will be asked to give more information. If you want to make legal arguments, you must state those arguments in another document, separate from the petition. Be aware that, to properly file documents with the Court there may be page limits or word count requirements, and other rules. You may find these rules in the Federal Rules of Civil Procedure, or in the local civil rules of the Court where you file this petition. All hard copy filings must be filed using paper sized 8½ by 11 inches. Do not use the back of any page.

- 5. Required Filing Fee.** You must include the \$5.00 filing fee required by 28 U.S.C. § 1914(a). If you are financially unable to pay the filing fee, fill out the attached Declaration and Application to Proceed In Forma Pauperis (“IFP”) in a Federal Habeas Action. You must sign the IFP application.
- 6. If you would like to ask the Court to appoint a lawyer to represent you, with no cost to you, because you cannot afford to hire your own attorney, fill out the attached Motion for Appointment of Counsel. There is no guarantee that an attorney will be appointed.**
- 7. Service of Petition.** After you submit your petition to the Court, the Court will review your petition and, if it meets legal requirements, the Court will serve it on the Respondent(s) if service has not already been accomplished.
- 8. Answer or Response to Petition and Reply; deadlines.** After your § 2241 habeas petition has been served, the Court will determine when the Government’s answer (also known as a “return”) or other response to the petition is due. The Court will also determine when your reply to Respondent’s answer or response is due.
- 9. Consent.** At the time your case is filed, you will be asked if you consent to the jurisdiction of a Magistrate Judge. You have a right to have your case handled by a District Judge, but you may waive that right by consenting to the jurisdiction of a Magistrate Judge. If you consent, then your case may be assigned to a Magistrate Judge who will handle the entirety of the case. If you do not consent, then your case will be assigned to a District Judge who will handle your case instead. More information about each of the Judges is available on the Court’s website.
- 10. Submitting documents to the Court.** Mail your hard copy petition to the Clerk of the District Court for the Western District of Washington; or follow the Court’s instructions for filing by email. If you want a file-stamped copy of the petition, you must enclose an additional copy of the petition and ask the Court to file-stamp it and return it to you.
- 11. Motions.** If you want the Court to do something, you are required to file a written motion with the Court. A motion is a formal request for the Court to take action. For example, if you have a good reason to ask for a new due date because you need more time to file your reply brief, you will file a motion for extension of time. In the motion, you should tell the Court what has happened that caused you to need more time and state how many days you believe will be necessary to file your brief.

**12. Change of Address.** You are required to let the Court and other parties to the lawsuit know if your contact information changes. This is to make sure that all case filings can be sent to the correct mail (or email) address. For this reason, you must inform the Clerk's Office in writing of any changes to your contact information. Failure to keep a current address on file with the Clerk's Office may result in the dismissal of your case.

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

<hr/> <div>Petitioner(s),</div>  <div>v.</div>  <hr/> <hr/> <hr/> <hr/> <div>Respondent(s).</div>	CASE NO. _____ (leave blank – supplied by Clerk of Court)
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**PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241  
(FOR USE ONLY IN IMMIGRATION HABEAS CASES)**

**Personal Information**

1. (a) Your full name: \_\_\_\_\_

(b) Other names you have used: \_\_\_\_\_

2. Current Address: \_\_\_\_\_

3. Are you currently in custody, detained, paroled, restrained by an order of an administrative tribunal or court, or otherwise subject to official restraint on your freedom and liberty by:

\_\_\_\_ Federal Authorities      \_\_\_\_ State Authorities      \_\_\_\_ Other - explain:

\_\_\_\_\_.

## Appeals of Immigration Proceedings

4. Date you were taken into immigration custody, detention, parole, or other official restraint on freedom and liberty: \_\_\_\_\_

5. If there has been a removal order or reinstatement of a removal order, what was the date of that order? \_\_\_\_\_

6. Did you file an appeal with the Board of Immigration Appeals?

☐ Yes

☐ No

7. If you answered "YES" to Question 6, then provide:

(a) Date of filing: \_\_\_\_\_

(b) Case number: \_\_\_\_\_

(c) Result: \_\_\_\_\_

(d) Date of result: \_\_\_\_\_

(e) Issues raised: \_\_\_\_\_

8. Did you appeal the decision to the United States Court of Appeals?

☐ Yes

☐ No

9. If you answered "YES" to Question 8, then provide:

(a) Date of filing: \_\_\_\_\_

(b) Case number: \_\_\_\_\_

(c) Result: \_\_\_\_\_

(d) Date of result: \_\_\_\_\_

(e) Issues raised: \_\_\_\_\_

### **Grounds for Your Challenge in This Petition**

10. State every ground (reason) that supports your claim that you are in custody, detention, parole, or other official restraint in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than two grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

#### **GROUND ONE:**

Supporting facts:

#### **GROUND TWO:**

Supporting facts:

### **Request for Relief**

11. State exactly what you want the court to do:

### **Declaration Under Penalty of Perjury**

If you are in custody, on what date did you place this petition in the mail system at the location you are in custody at: \_\_\_\_\_

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: \_\_\_\_\_

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*Signature of Petitioner*

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*Signature of Attorney or other authorized person, if any*

### **Consent to Magistrate Judge**

In the event this case is assigned to a Magistrate Judge, the Court requests that Petitioner consent to having the Magistrate Judge preside over the entirety of this case. See Second Amended General Order 02-19, 28 U.S.C. § 636, Local Magistrate Judge Rule 13, and Federal Rule of Civil Procedure 73. Respondents will also be provided an opportunity to either consent or decline consent of this case to a Magistrate Judge. If both parties give consent, the Magistrate Judge will preside over the entire case for all purposes, including any dispositive matter. The Magistrate Judge will enter a final order and judgment that will be appealable directly to the Ninth Circuit Court of Appeals. Consent to a Magistrate Judge is voluntary and entirely up to the parties. Petitioner may consent or decline consent by marking the appropriate line below.

\_\_\_\_\_ **I consent and agree the case can be assigned to a Magistrate Judge**

\_\_\_\_\_ **I decline consent and request the case be reassigned to a District Judge**

**UNITED STATES DISTRICT COURT**

Western District of Washington

Petitioner

vs.

Respondent(s)

Case Number: \_\_\_\_\_

**DECLARATION AND APPLICATION  
TO PROCEED IN FORMA PAUPERIS  
IN A FEDERAL HABEAS ACTION****DO NOT use this form if you are bringing a  
civil action.****DECLARATION AND APPLICATION TO PROCEED IN FORMA PAUPERIS**

I (print your name) \_\_\_\_\_ declare I am the petitioner in this habeas proceeding; I believe I am entitled to relief; and I am unable to pay the costs of this proceeding or give security thereof.

This action proceeds pursuant to: 28 U.S.C. ☐ §2241 ☐ §2254 ☐ §2255

In support of this application, I answer *all* of the following questions:

1. Are you presently employed?

☐ Yes Total amount of net monthly salary (take home pay) \$ \_\_\_\_\_

Name and address of employer \_\_\_\_\_

☐ No Date of last employment \_\_\_\_\_

Amount of net monthly salary when last employed \$ \_\_\_\_\_

2. For the past twelve months, list the amount of money you have received from any of the following sources.

a. Business, profession or other self-employment \$ \_\_\_\_\_

b. Income from rent, interest or dividends \$ \_\_\_\_\_

c. Pensions, annuities or life insurance payments \$ \_\_\_\_\_

d. Disability, unemployment, workers compensation or public assistance \$ \_\_\_\_\_

e. Gifts or inheritances \$ \_\_\_\_\_

f. Money received from child support or alimony \$ \_\_\_\_\_

g. Describe any other source of income \_\_\_\_\_ \$ \_\_\_\_\_



3. List the amount for each of the following (include prison account funds) :

Cash on hand \$\_\_\_\_\_ Checking Account \$\_\_\_\_\_ Savings Account \$\_\_\_\_\_

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

If Yes, describe the property and state its approximate value:

☐ Yes ☐ No

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5. Are any persons dependent upon you for support? If Yes, state their relationship to you, and indicate how much you contribute toward their support each month. (Do not include names of minor children. )

☐ Yes ☐ No

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6. Describe the types of monthly expenses you incur, such as housing, transportation, utilities, loan payments, or other regular monthly expenses and the amount spent each month.

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7. Provide any other information that will help explain why you cannot pay court fees and costs.

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

\_\_\_\_\_  
**Executed on: (Date)**

\_\_\_\_\_  
**Signature of Applicant**

**CERTIFICATION**

**Have the institution fill out the Certification portion of this application and attach a certified copy of your prison trust account statement showing transactions for the past six months.**

I certify that the applicant named herein has the sum of \$\_\_\_\_\_ on account to his/her credit at

(Name of Institution) \_\_\_\_\_

\_\_\_\_\_  
**Executed on: (Date)**

\_\_\_\_\_  
**Signature of Financial Officer**

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
OFFICE OF THE CLERK**

RAVI SUBRAMANIAN  
CLERK

U.S. COURTHOUSE, SUITE 2310  
700 STEWART STREET  
SEATTLE, WASHINGTON 98104

TO: Plaintiff in a Civil Rights Action Which **DOES NOT** Involve Employment Discrimination (Title VII Action)

FROM: United States District Court  
Western District of Washington

**APPLICATION FOR COURT-APPOINTED COUNSEL**

The Clerk provides an application for court-appointed counsel for pro se litigants. If you choose to apply for court-appointed counsel:

- (1) Complete all portions of the Application and sign the Application in the appropriate space on page three, indicating your desire to have court-appointed counsel; and
- (2) If you have not been granted leave to proceed in forma pauperis in this action, complete and sign the attached Financial Affidavit; and
- (3) Sign Application;
- (4) Within thirty days of filing the Complaint, file the original signed Application (and Affidavit if appropriate) in the Clerk's office together with a copy for the United States District Judge or Magistrate Judge before whom the case is pending; and
- (5) Send copies to the attorney for each party who has appeared or answered in the case.

**APPOINTMENT PROCEDURE**

Congress has provided, in 29 U.S.C. § 1915(d), that courts may request an attorney to represent any person who qualifies to proceed in forma pauperis. The Court does not have funds, however, to compensate attorneys who agree to represent civil rights plaintiffs. This Court has therefore formed a Pro Bono panel of attorneys who are willing to accept appointment to represent pro se litigants in civil rights actions.

If the Court determines that an applicant for court-appointed counsel in a civil rights action is financially qualified, the Court may refer the action to the Civil Rights Case Screening Committee. The Committee determines whether counsel should be appointed to represent the pro se plaintiff. Factors which the Committee takes into account include:

- (1) the inability of the pro se party to retain counsel by other means;
- (2) the potential merit of the claims as set forth in the pleadings;
- (3) the nature and complexity of the action;

- (4) the presence of conflicting testimony calling for a lawyer's presentation of evidence and cross-examination;
- (5) the capability of the pro se party to present the case;
- (6) the degree to which the interest of justice will be served by appointment of counsel, including the benefit the Court may derive from the assistance of appointed counsel.

If the Committee determines that a plaintiff is eligible for appointed counsel, the Court appoints an attorney from the Pro Bono Panel. The plaintiff is not entitled to select a specific attorney for appointment. It is important, therefore, that plaintiffs complete their own attempts to retain counsel before applying for appointed counsel.

### **FINANCIAL RESPONSIBILITY**

It is each plaintiff's responsibility to pay litigation expenses to the extent reasonably feasible based on his or her financial condition. It is also each plaintiff's responsibility to pay part or all of the court-appointed attorney's fees to the extent reasonably feasible based on his or her financial condition.

If the plaintiff's claim is ultimately successful, the Court has authority to order the defendant(s) to pay plaintiff's attorney's fees under 42 U.S.C. § 1988.

### **ADDITIONAL INFORMATION**

If you have any questions regarding the Application form, or about the procedure in preparing and filing it, you may direct them to the Clerk of the Court at U.S. Courthouse, Suite 2310, 700 Stewart St, Seattle, WA 98101 or if by telephone at (206) 370-8400.

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

CASE NO. \_\_\_\_\_

APPLICATION FOR COURT-  
APPOINTED COUNSEL

Noted for Determination on:

\_\_\_\_\_  
(Insert date of 21st day after date of  
filing)

\_\_\_\_\_  
Plaintiff(s)  
vs.  
\_\_\_\_\_  
Defendant(s)

**MOTION**

Plaintiff respectfully requests that the Court appoint counsel to represent him/her. This action seeks relief under federal statutes protecting civil rights. This is **not**, however, an employment discrimination action brought under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e et seq.

**FINANCIAL AFFIDAVIT**

Has this Court previously granted you leave to proceed in forma pauperis in this case?  
\_\_\_\_\_. If not, complete the attached Financial Affidavit.

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**PREVIOUS EFFORTS TO RETAIN AN ATTORNEY**

Describe briefly the efforts you have already made to retain an attorney. Indicate as accurately as possible how many attorneys you have contacted, and over what period of time. You need not identify the specific attorneys, and should not indicate the reasons they declined to represent you.

**MERITS OF CLAIM**

Has the Washington State Human Rights Commission, or other state or federal agency officially determined whether there is reasonable cause to believe that the allegations of your complaint are true?\_\_\_\_\_. If so, please identify the agency which made the finding, and the conclusion the agency reached. \_\_\_\_\_

If there has been no such finding in your favor by a government agency, you may attach a brief statement showing why your claim has merit. Do not include exhibits or other evidence. Your statement is incorporated in this application and is subscribed under oath.

**AFFIDAVIT OF SERVICE**

The following is a list of all other parties, and their respective attorneys, who have appeared or answered in this action.

<u>PARTY</u>	<u>ATTORNEY</u>
<div></div>	<div></div>
<div></div>	<div></div>
<div></div>	<div></div>

1 I, \_\_\_\_\_, plaintiff in this action, swear that I have read  
2 this entire Application, including any attachments, and the Complaint. In accordance with 28 U.S.C.  
3 § 1746, I declare under penalty of perjury that the foregoing information is true and correct.  
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7 Executed on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
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11 \_\_\_\_\_  
12 Signature of Plaintiff  
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15 Plaintiff's Name, Address, Telephone Number, Email:  
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**UNITED STATES DISTRICT COURT**

Western District of Washington

Plaintiff

Case Number: \_\_\_\_\_

vs.

**FINANCIAL AFFIDAVIT**

Defendant(s)

**DECLARATION AND FINANCIAL AFFIDAVIT**

I (print your name) \_\_\_\_\_ declare I am the plaintiff/defendant (circle one) in this case; I believe I am entitled to relief; and I am unable to pay the costs of an attorney. The nature of my action is briefly stated as follows:

In support of this affidavit, I answer *all* of the following questions:

1. Are you presently employed?

☐ Yes Total amount of net monthly salary (take home pay) \$ \_\_\_\_\_

Name and address of employer \_\_\_\_\_

☐ No Date of last employment \_\_\_\_\_ Total amount of last net monthly salary \$ \_\_\_\_\_

2. If married, is your spouse presently employed? ☐ Not married

☐ Yes Total amount of spouse's net monthly salary (take home pay) \$ \_\_\_\_\_

Name and address of employer \_\_\_\_\_

☐ No Date of spouse's last employment \_\_\_\_\_ Total amount of last net monthly salary \$ \_\_\_\_\_

3. For the past twelve months, list the amount of money you and/or your spouse have received from any of the following sources.

a. Business, profession or other self-employment \$ \_\_\_\_\_

b. Income from rent, interest or dividends \$ \_\_\_\_\_

c. Pensions, annuities or life insurance payments \$ \_\_\_\_\_

d. Disability, unemployment, workers compensation or public assistance \$ \_\_\_\_\_

e. Gifts or inheritances \$ \_\_\_\_\_

f. Money received from child support or alimony \$ \_\_\_\_\_

g. Describe any other source of income \_\_\_\_\_ \$ \_\_\_\_\_

4. List the amount for each of the following for you and/or your spouse:

Cash on hand \$ \_\_\_\_\_ Checking Account \$ \_\_\_\_\_ Savings Account \$ \_\_\_\_\_

5. Do you and/or your spouse own or have any interest in any real estate, stocks, bonds, notes, retirement plans, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? If Yes, describe the property and state its approximate value:

☐ Yes ☐ No

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6. Are any persons dependent upon you or your spouse for support? If Yes, state their relationship to you or your spouse, and indicate how much is contributed toward their support each month. (Do not include names of minor children.)

☐ Yes ☐ No

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7. Describe the types of monthly expenses you incur, such as housing, transportation, utilities, loan payments, or other regular monthly expenses and the amount spent each month.

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8. Provide any other information that will help explain why you cannot pay court fees and costs.

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

<b>Executed on: (Date)</b>	<b>Signature of Party (Required)</b>