



United States District Court Western District of Washington

www.wawd.uscourts.gov

Prisoner Litigation Guide



Disclaimer:

This guide is intended to assist prisoners wishing to file a civil action in the United States District Court, Western District of Washington. This guide is provided for informational purposes only and does not constitute legal advice. The Federal Rules of Civil Procedure (FRCP) and Local Civil Rules (LCR) of this court control how these cases must be filed.

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Part One

Before You File Your Case

Introduction

This guide is intended to assist incarcerated filers filing different prisoner cases that are accepted in this court.

How Do I Contact the Clerk's Office?

The Western District of Washington has courthouses in Seattle and Tacoma. Where you file your case depends on the county where the alleged incident happened or the facility where you are currently incarcerated.

The Clerk's Office **cannot** accept collect calls. If you would like to write to the court, you may do so by sending your letter to the appropriate office below.

Clerk's Office (Seattle)
U.S. District Court
700 Stewart Street, Suite 2310
Seattle, WA 98101
206-370-8400

Clerk's Office (Tacoma)
U.S. District Court
1717 Pacific Avenue, Room 3100
Tacoma, WA 98402
253-882-3800

What Types of Cases Can I File?

There are four types of cases that can be filed by prisoners who are currently incarcerated. They include:

- **1983 Prisoner Civil Rights Complaint** (42 U.S.C § 1983)

This action may be brought by anyone who believes that his/her federal constitutional rights have been violated. The filing fee is \$405.00

- **2241 Petition for Writ of Habeas Corpus** (28 U.S.C § 2241)

These petitions are generally filed by inmates who are in federal custody or immigration detention and seek to challenge their confinement. The filing fee is \$5.00.

- **2254 Petition for Writ of Habeas Corpus** (28 U.S.C § 2254)

These petitions are generally filed by inmates who are in state custody and seek to challenge their confinement in violation of the Constitution, law, or treaties of the United States. The filing fee is \$5.00.

- **2255 Motion to Vacate, Set Aside, or Correct Sentence** (28 U.S.C. § 2255)

These are motions to vacate, set aside or correct a sentence by a person in federal custody. You may file this motion only if you are attacking your federal sentence. A federal sentence is a sentence imposed by a federal court. The fact that you may be located in a federal institution has nothing to do with this motion. There is no filing fee.

Court Rules

Should you decide to file a case, the Federal Rules of Civil Procedure (FRCP) and the Local Civil Rules (LCR) of this court control how civil cases must be filed and the process by which the case will proceed through the court system.

The court is unable to provide a copy of the court rules. However, you may access the rules at the law library where you are incarcerated or on the court's website at www.wawd.uscourts.gov/local-rules-and-orders.

Where Can I Get Forms?

Forms can be obtained directly from the Clerk's Office or through the court's website at www.wawd.uscourts.gov. When requesting forms, please specify the type of case you are filing to ensure the correct forms are mailed to you.

Fees

The following fees are required to open a case:

- 1983 Prisoner Civil Rights Complaint: \$405.00
- 2241 Petition for Habeas Corpus: \$5.00
- 2254 Petition for Habeas Corpus: \$5.00
- 2255 Motion to Vacate, Set Aside, or Correct Sentence: No filing fee

If you are unable to pay the filing fee and would like to request that fee be waived, you must fill out an Application to Proceed In Forma Pauperis. If you are incarcerated and filing a 1983, 2241 or 2254 complaint, you must also include a copy of your prison trust account for the past six months. See Part Two of this guide for more information.

What the Clerk's Office can and cannot do

Although the Clerk's office can answer most questions, we are legally prohibited from providing legal advice.

We can:

- Answer general questions about how the court works, including providing you with the required forms to open a new case.

We cannot:

- Give legal advice, including whether or not you should file a case.
- Interpret local or federal rules.
- Determine how or when a judge will make a ruling in your case.
- Tell you what words to use in your document(s).
- Talk to the judge for you or let you talk to the judge outside of court.

Tips for Filing Documents

- Use white, 8½ x 11 paper and write on one side of the page only.
- Use a black or blue pen. If you only have access to a pencil, write clearly and make sure you write dark enough so the information contained in the document will be legible when the document is scanned into our system.
- Once you have been assigned a case number and judge, future documents must include the case caption, case number and title of the document (i.e., motion, affidavit, declaration, etc.) on the first page of the document only. All documents must be dated and signed with an original signature.

If you are filing a 1983 Prisoner Civil Rights Complaint, the parties will be the "plaintiff" and "defendants."

If you are filing a 2241, 2254 or 2255 petition, the parties will be the "petitioner" and "respondents."

See example below.

United States District Courts
Western District of Washington

_____ / Plaintiff/Petitioner	Case Number: _____
v	(TITLE OF DOCUMENT)
_____ / Defendants/Respondents	

- It's very important to carefully review documents that you received from the court as there may be important deadlines you must meet in order for your case to move forward.

Part Two

Application to Proceed In Forma Pauperis (IFP)

When you file a case in this court, you must also either pay the filing fee or submit an Application to Proceed In Forma Pauperis, also known as an “IFP.”

What is “In Forma Pauperis”?

If you cannot afford to pay the filing fee, you can apply to have the fee “waived,” which means that your case will proceed without payment of the filing fee. It is very important to fill out the form completely and accurately as the judge will use the information to determine if you have the financial ability to pay the filing fee. IFP status applies to the following types of actions:

- 42 U.S.C. § 1983 Prisoner Civil Rights Complaint
- 28 U.S.C. § 2241 Petition for Writ of Habeas Corpus
- 28 U.S.C. § 2254 Petition for Writ of Habeas Corpus

If you are filing a 2255 Motion to Vacate, Set aside, or Correct Sentence, you do not need to submit the form as a filing fee is not required.

How to Apply for IFP Status

To apply for IFP status, you must first complete the Application to Proceed In Forma Pauperis form and submit it with your complaint or petition. All IFP forms must be accompanied by a certified copy of your prison trust account for the past six months.

You must complete the correct IFP form depending on the type of case you are filing.

- **If you are filing a 1983 Prisoner Civil Rights Complaint**

1. You must complete the three-page form entitled, “Declaration and Application to Proceed In Forma Pauperis and Written Consent for Payment of Costs by a Prisoner Bringing a Civil Action.”

In addition to answering questions regarding your current financial situation, you must also complete and sign the sections on page two and three of the form.

- **Consent for Payment of Costs:** By signing this section, you are agreeing to consent to a reduction in any award you may receive on your case by the amount of costs. The IFP application is not complete without your signature.
 - **Acknowledgment and Authorization:** By signing this section, you are authorizing the court to check your financial status so that a ruling may be made on your IFP application. The IFP application is not complete without your signature.
2. You must attach a certified copy of your prison trust account statement showing transactions for the past six months. Failure to provide a *six month* statement showing a current balance may result in a deficiency notice from the Clerk's Office and a delay in your case.
 3. The form must be typewritten or printed clearly. Be sure to answer all of the questions completely and sign and date the form. If the IFP application does not comply with the rules and is not corrected or a filing fee is not paid within 30 days, the entire case may be dismissed.
- **If you are filing a 2241 or 2254 Petition for Writ of Habeas Corpus**
 1. You must complete the two-page form entitled, "Declaration and Application to Proceed In Forma Pauperis in a Federal Habeas Action." Forms are available on the court's website www.wawd.uscourts.gov
 2. You must attach a certified copy of your prison trust account statement showing transactions for the past six months. This form must be signed by an officer of the facility in which you are currently incarcerated. Failure to provide a *six month* statement showing a current balance may result in a deficiency notice from the Clerk's Office and a delay in your case.
 3. The form must be typewritten or printed clearly. Be sure to answer all of the questions completely and sign and date the form. If the IFP application does not comply with the rules and is not corrected or a filing fee is not paid within 30 days, the entire case may be dismissed.

What is a Deficiency Notice?

Once the IFP form has been submitted to the court, the Clerk's Office will review the application to ensure that all questions have been answered and a prison trust account was submitted.

If information is found to be missing from your application or you did not include a prison trust account provided in the rules, the Clerk's Office will issue a "**deficiency notice**," giving you thirty (30) days to correct the mistake.

Below are a few of the most common deficiency notices issued by the Clerk's Office:

- 1) Did not include prison trust account statement and/or the statement did not include information for the past six months. This form must be signed by officer of the institution in which you are located.
- 2) Submitted the incorrect IFP form for the type of case filed.
- 3) The form was not signed or completed in full.
- 4) Did not provide an IFP Application or filing fee with complaint or petition.

Failure to comply with or correct the deficiencies within the timeframe ordered by the court, may result in the court denying your request to waive the filing fee.

Part Three

1983 Civil Rights Complaint (42 U.S.C. § 1983)

A 1983 Prisoner Civil Rights Complaint may be brought by anyone who believes that his or her federal constitutional rights have been violated. To file this type of case, you must either pay the \$405.00 filing fee or file an IFP application (See Part Two.)

What to Consider Before Filing

- Whether you have a civil rights claim.
- Whether you have met the exhaustion requirements.
- Whether the person(s) you claim violated your civil rights may have immunity.
- Whether your claim is timely and is filed before the statute of limitations expires.

Whether your claim will be timely, or is filed before the statute of limitations expired (Remember, the Clerk's Office cannot advise you on matters pertaining to calculating these deadlines).

How do I file a Civil Rights Complaint?

Ensuring you have all the necessary parts to file a Civil Rights Complaint completed will allow your case to be considered sooner. Follow each point below to the best of your ability.

- **Civil Rights Complaint Form**
 - Prisoners filing a civil rights complaint must use the form entitled, "Prisoner Civil Rights Complaint, 42 U.S.C. § 1983." It must be typewritten or legibly handwritten. **Do not write on the back of any page or in the margins.** If additional space is needed, you may attach additional pages of standard letter size paper and indicate the sections that are being continued. You must use this form.

Be sure to answer all of the questions on the complaint form. The name and address for each defendant must be provided on the front page of the complaint or on a separate sheet of paper. If you do not provide this information, the court will be unable to serve the defendants. Finally, write your original signature and date the last page.

- When the form is complete, make the required number of copies. **The Clerk's Office will not make copies for you without payment.**
- **Filing Fee**
 - A \$350 filing fee, plus a \$55 administrative fee, is required for all civil rights actions. The fee must accompany the complaint. Checks or money orders must be made payable to the U.S. District Court. If you cannot afford the filing fee, you may ask to proceed *in forma pauperis* (IFP) (See Part Two). You are still responsible for your own copying costs. **The Clerk's Office will not make copies for you without payment.** To file an application for IFP status, refer to that section in this manual.
- **Name and Address for Each Defendant**
 - In order to serve the complaint on the defendants, you must supply enough information so that the Court can personally serve them. You may do this by submitting the defendants' names and addresses on the front of the complaint or on a separate sheet of paper. Be sure to include the person's name, title (if any) and physical address (i.e., a P.O. Box does *not* help). Complete and accurate information is very important for service.

Where Do I File My Complaint?

****NOTE:** Pursuant to General Orders 02-15 and 06-16, participation in the Prisoner E-Filing Initiative is mandatory for all prisoner litigants incarcerated at the listed prisons. Please comply by submitting all documents to be filed with this Court to the Law Librarian/designee for electronic filing. Effective June 1, 2015, if you are incarcerated at one of the following correctional facilities, you must e-file your documents through the Law Librarian for your facility:

- Airway Heights Correctional Center- Airway Heights, WA
- Clallam Bay Correctional Center- Clallam Bay, WA
- Coyote Ridge Correctional Center- Connell, WA
- Monroe Correctional Complex- Monroe, WA (all units at Monroe)
- Stafford Creek Correctional Center- Aberdeen, WA
- Washington State Penitentiary- Walla Walla, WA

- Washington Corrections Center- Shelton, WA
- Washington Corrections Center For Women- Purdy, WA

The Western District of Washington has a court in Seattle and another court in Tacoma. The place to file a civil rights action is determined by where the defendants reside or where the action occurred. The local rule states:

"All civil cases in which all defendants reside, or in which the claim arose, in the counties of Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Kitsap, Lewis, Mason, Pacific, Pierce, Skamania, Thurston and Wahkiakum, shall be filed at Tacoma." Local Rule 5.

Actions in which the defendants reside or in which the claim arose in Island, King, San Juan, Skagit, Snohomish and Whatcom Counties must be filed in Seattle.

The addresses for both courts are:

Clerk's Office
US District Court
700 Stewart St, Suite 2310
Seattle, WA 98101

Clerk's Office
US District Court
1717 Pacific Ave
Tacoma, WA 98402

1983 Civil Rights Complaint Checklist

The court must have:

- Complaint on this court's form
- Names and addresses of defendants to be served
- \$350.00 filing fee (plus the \$55 administrative fee, for a total of \$405), or an IFP application.

Failure to comply with any of the above may result in the dismissal of your case.

Part Four

Writ of Habeas Corpus (2254 and 2241)

There are two types of writs of habeas corpus. When filing your case with our court, be sure to file the correct form that applies to your situation.

- **28 U.S.C. § 2254**
 - A writ of habeas corpus brought under 28 U.S.C. § 2254 challenges confinement of a prisoner in **state** custody in violation of the Constitution, law, or treaties of the United States.

- **28 U.S.C. § 2241**
 - A 28 U.S.C. § 2241 writ challenges confinement of a prisoner in **federal** custody. These are often filed by those in immigration detention or those in the custody of the federal Bureau of Prisons.

How Do I File a Writ of Habeas Corpus?

The following instructions apply to both 2254 and 2241 Petitions for Writ of Habeas Corpus. As stated above, be sure you submit the correct form for filing. Below, you will find the requirements necessary for the Clerk's Office to accept your petition.

- **Writ of Habeas Corpus Form**
 - Local Rule CR 100 requires everyone filing a writ of habeas corpus to use the forms supplied by the court. To file a 28 U.S.C. § 2254 writ, use the form entitled, "Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody." To file a 28 U.S.C. § 2241 writ, use the form entitled, "Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241."
 - The forms are designed to help you file your petition. The petition must be typewritten or *legibly* handwritten. **Do not write on the back of any forms or in the margins.** If additional space is needed, you may attach additional pages of standard letter size paper. Any additional briefs or memoranda must be filed separately. **Do not** attach additional briefs or motions to your petition.

- Answer *all* questions on the form. Be sure to include the criminal case number, judge, date and location of the court where you were convicted and sentenced, if applicable. Once the form is complete, sign and date it.
- **Filing Fee**
 - A \$5.00 filing fee is required. The filing fee must accompany the petition. If you meet the requirements for proceeding *In Forma Pauperis* (IFP), the fee will be waived. To file an IFP application, refer to that section in this manual.

Where Do I File My Complaint?

The Western District of Washington has a court in Seattle and another court in Tacoma. The place to file a habeas action is determined by which **state** court heard your case (for 2254 petitions) or **federal** (for 2241 petitions) court heard your case.

Habeas Checklist

The court must have:

- Petition submitted on this court's form.
- \$5.00 Filing fee or IFP application.

Failure to comply with any of the above may result in the dismissal of your writ.

Part Five

28 USC § Motion to Vacate, Set Aside, or Correct Sentence

These are motions to vacate, set aside or correct a sentence by a person in federal custody. You may file this motion **only** if you are attacking your **federal** sentence. A federal sentence is a sentence imposed by a federal court. The fact that you may be located in a federal institution has nothing to do with this motion. If you are attacking a *state* sentence, a 28 U.S.C. § 2254 Habeas Corpus Petition may be the proper procedure.

Where Can a Motion Be Brought?

All 2255 motions must be brought in the court that imposed your sentence. Therefore, you may bring a 2255 motion in the Western District of Washington if you were sentenced by this court. You **must** provide the case number of the original criminal matter. Your case will be reassigned to the judge who sentenced you.

How To File a Motion

28 U.S.C. § 2255 Motion Form

- Local Rule CR 100 requires everyone filing a 2255 motion to use the form entitled, "Motion under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody." The form is designed to help you prepare your motion. It must be typewritten or *legibly* handwritten. **Do not write on the back of any forms or in the margins.** If additional space is needed, you may attach additional pages of standard letter size paper. Any additional briefs or memoranda must be filed separately. DO NOT attach additional documents to your motion.
- Answer *all* questions on the form. Be sure to include the criminal case number, judge and the date of your conviction and sentencing.

Filing Fee

- Application for IFP status is not necessary.

28 U.S.C. § 2255 Motion Checklist

The court must have:

- Motion submitted on this court's form
- **Failure to comply with the above may result in the dismissal of your motion.**

Part Six

After Your Case is Filed

Once your case is filed with the court, it is important to continue to follow the instructions of the court. Failure to do so may result in the dismissal of your case. You will need to follow the Federal Rules of Civil Procedure and this Court's Local Rules, along with any orders from your judge.

Filed Documents

All documents filed with the court must be on 8½ x 11 inch paper. An original signature, date and your current address must be included. The document must also have the case number printed clearly on the front page.

File all documents with the Clerk's Office. You should keep a copy of any filed document for your records.

Change of Address

If you change your address anytime after you have filed your case, you must notify the court in writing. Failure to do so may result in the dismissal of your case.

Discovery

Do not submit discovery material (i.e., interrogatories, requests for production) to the court. The material is not for the court's use. Pursuant to Rule 5(d)(1) of the Federal Rules of Civil Procedure, discovery requests and responses thereto are not to be filed with the Court until they are to be used in the proceeding or until the Court orders that they be filed.