



**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

**PRO SE GUIDEBOOK**

**FOR**

**PETITIONS FOR WRITS OF HABEAS CORPUS**

**GOVERNED BY 28 U.S.C. § 2254**

October 2020

This Guidebook is intended to be an informative and practical resource for understanding the basic procedures of the Court. The statements in this Guidebook do not constitute legal advice. DO NOT CITE THIS GUIDEBOOK AS AUTHORITY. This Guidebook does not take the place of the [Federal Rules](#), this Court's [Local Rules](#), or the individual practices of the Judges of this Court. All parties using this Guidebook remain responsible for complying with all applicable rules of procedure. If there is any conflict between this Guidebook and the applicable rules, the rules govern.



## INTRODUCTION

This Guidebook is intended to help you understand the procedures that you must follow if you represent yourself in this Court. You cannot rely on this Guidebook alone, however, because it does not address every situation that might arise in your case. Moreover, this Guidebook does not offer any information about the specific issues in your lawsuit. **And this Guidebook is not legal advice.**

The Court encourages you to review this Guidebook together with [Title 28 of the United States Code \(“U.S.C.”\) sections \(§§\) 2241-2254](#); the [Rules Governing Section 2254 Cases in the United States District Courts](#); the [Federal Rules of Civil Procedure](#); and the Court’s [Local Rules](#). If you are a prisoner, the United States Code should be available in your prison law library. The Federal Rules of Civil Procedure appear at the end of Title 28 of the United States Code. The Rules Governing Section 2254 Cases appear immediately after 28 U.S.C. § 2254 in the United States Code. If your prison law library does not have the most recent version of this Court’s Local Rules, they can be obtained from the Clerk’s Office by request. Each of these resources is also available online.

This Guidebook is organized in the sequence that a habeas petition proceeds through the Court and is written in a question-and answer format. The Table of Contents, found below, includes each question that this Guidebook addresses.



## TABLE OF CONTENTS

<b>CHAPTER ONE: GENERAL INFORMATION .....</b>	<b>3</b>
What is the Clerk’s Office? .....	3
What does it mean to file documents with the Clerk’s Office? .....	3
How do I contact the Clerk’s Office?.....	4
What is a magistrate judge?.....	4
<b>CHAPTER TWO: THE BASICS .....</b>	<b>5</b>
What is a petition for a writ of habeas corpus? .....	5
Who may file a habeas petition? .....	5
Do you meet the “in custody” requirement? .....	5
Did you exhaust alternative remedies before filing your petition?.....	6
What type of relief is available if a petition is granted? .....	6
Is there a limitations period for filing a habeas petition?.....	6
May I amend my habeas petition after I file it? .....	7
May I file a second habeas petition challenging my state-court conviction? .....	8
<b>CHAPTER THREE: HOW TO START A § 2254 PROCEEDING .....</b>	<b>9</b>
What are the requirements to start a § 2254 proceeding? .....	9
How do I complete the habeas corpus petition form?.....	9
Can I file one habeas petition for judgments from multiple courts?.....	9
Whom should I name as the respondent on the habeas corpus petition? .....	10
How should I answer Question 12 (grounds for relief) on the habeas corpus petition? .....	10
May I file attachments with my petition?.....	10
May I file a memorandum of law with my petition?.....	11
Do I need to notarize the petition? .....	11
What is a civil cover sheet?.....	11
How do I pay the \$5.00 filing fee? .....	12
What if I cannot afford the filing fee? .....	12
Do I need to serve a copy of my petition? .....	12
May I request appointment of counsel? .....	12
What other documents should I file at the start of my case?.....	13
How can I find out when my petition was received by the Clerk’s Office?.....	13
<b>CHAPTER FOUR: INITIAL REVIEW .....</b>	<b>14</b>
What is initial review?.....	14
How will I know the results of the initial review? .....	14
<b>CHAPTER FIVE: THE HABEAS PROCEEDINGS .....</b>	<b>15</b>
How will the Court get the state-court record in my case? .....	15
May I reply to the respondent’s answer? .....	15
Is discovery allowed? .....	15
Will there be an evidentiary hearing?.....	16
Will there be any hearing before the judge decides my case? .....	16



How do I object to an adverse Report and Recommendation?..... 16

**CHAPTER SIX: JUDGMENT AND APPEAL .....17**

What do I need to do to file an appeal? ..... 17

How do I file an appeal? ..... 17

How much time do I have to begin my appeal? ..... 18

May I request appointment of counsel on appeal? ..... 18

**APPENDIX OF FORMS.....19**



## **CHAPTER ONE: GENERAL INFORMATION**

### **What is the Clerk's Office?**

The Clerk's Office maintains the Court's records. Most of your interactions with the Court will be through the Clerk's Office, where you will file the documents that will be reviewed by the judge. The Clerk's Office cannot give you legal advice or tell you when a judge might make a decision in your case, but the Clerk's Office can tell you whether a particular document has been filed and can provide copies of documents in the court record at a cost of \$.50 per page (payable in advance).

### **What does it mean to file documents with the Clerk's Office?**

The Clerk's Office receives documents on behalf of the Court and maintains a record of the documents received. By filing a document with the Clerk's Office, you ensure that the document becomes part of the official record in your case. This record allows both you and the judges to be certain of what documents have been presented in a case.

You may file any document, including a habeas petition, either by mailing the document to the Clerk's Office or by personally delivering the document to the Clerk's Office during business hours. After receiving your documents, the Clerk's Office will record (or "docket") your papers and send them to the judge assigned to your case. Any documents you file with the Court in a habeas matter will also be served on the party opposing your habeas petition.



## **How do I contact the Clerk's Office?**

You may contact the Clerk's Office at the following address and phone number:

United States District Court for the District of Minnesota  
Clerk's Office  
300 South Fourth Street, Suite 202  
Minneapolis, MN 55415

(612) 664-5000

## **What is a magistrate judge?**

A federal magistrate judge is a judicial officer who has some, but not all, of the powers of a district judge appointed under Article III of the United States Constitution. Magistrate judges may (among other things) set deadlines, enter orders on scheduling, and issue Reports and Recommendations regarding whether your habeas petition should be granted or denied. You may object to any portion of a Report and Recommendation entered by a magistrate judge in your case, and your objection will be reviewed by a district judge. Local Rules 72.1 and 72.2 explain more about the role of magistrate judges.



## CHAPTER TWO: THE BASICS

### **What is a petition for a writ of habeas corpus?**

A petition for a writ of habeas corpus is a request for the Court to review the legality of your detention. Section 2241 of Title 28 of the United States Code (“28 U.S.C. § 2241”) permits courts to issue writs of habeas corpus where a prisoner establishes that he is in custody in violation of the Constitution or laws or treaties of the United States. Habeas corpus petitions filed by state prisoners held pursuant to a state-court judgment are subject to several restrictions, many of which may be found in 28 U.S.C. § 2244 and 28 U.S.C. § 2254. Because of the importance of these restrictions, habeas petitions filed by state prisoners held pursuant to a state-court judgment are often referred to as petitions governed by § 2254, or as “§ 2254 petitions”

### **Who may file a habeas petition?**

There are several conditions, discussed in the following questions, that you must meet to properly file a habeas petition.

### **Do you meet the “in custody” requirement?**

A petitioner cannot seek a writ of habeas corpus unless he is being held “in custody” at the time that the habeas corpus petition is filed. The “in custody” requirement sometimes, though not always, is met if the petitioner is on probation, parole, or supervised release. Detention at a jail or prison also constitutes being “in custody” for



purposes of § 2241 and § 2254. By filing a habeas petition, you are challenging the legality of that custody.

### **Did you exhaust alternative remedies before filing your petition?**

A petitioner generally must exhaust alternative remedies before filing a habeas petition. For state prisoners, this will likely mean first presenting your claims to the state courts, including the state supreme court, before seeking federal habeas relief.

### **What type of relief is available if a petition is granted?**

A habeas petition is appropriate for challenging the fact that you are in custody, or for challenging the length of time for which you have been committed to custody. If your habeas petition is granted, your term in custody will be invalidated to the extent that the custody is found to be unlawful.

Monetary damages are not available in a habeas corpus action. You may not challenge the conditions of your confinement in a habeas action.

### **Is there a limitations period for filing a habeas petition?**

Yes, if you are a state prisoner challenging the validity of a state-court judgment. Habeas corpus petitions governed by § 2254 are subject to a one-year limitations period. In most cases, the one-year limitation period will begin to run after the judgment you seek to challenge becomes final. Judgment will become final upon denial of a writ of certiorari by the Supreme Court of the United States or, if you do not file a petition for a writ of certiorari, ninety days after the final ruling on direct appeal by the Minnesota



Supreme Court. If your claim depends upon a new rule of constitutional law that applies retroactively, or if you were impeded by state action from filing a habeas petition, or if your habeas petition relies upon a factual predicate that could not with due diligence have been discovered earlier, the limitations window for that claim may begin at a different date. *See* 28 U.S.C. § 2244(d). If you are a prisoner representing yourself, your habeas petition is deemed to be “filed” as of the date that it is properly placed in the prison mail system.

Should you properly file a petition for post-conviction relief in the state courts, the limitations window will be paused, or “tolled,” during the time that the petition remains pending in the state courts. Your federal limitations window will begin to run again after you have exhausted all appeals within the state courts or after the time for filing an appeal in the state courts has expired.

The rules governing the timeliness of habeas petitions under § 2254 are both strict and technical. Failure to timely file your habeas petition will likely result in summary denial of your petition.

### **May I amend my habeas petition after I file it?**

Maybe. After the respondent has answered your petition, you must receive permission from the court to file an amended petition. If you want to amend your petition, you will need to follow the procedures for amendments found in Federal Rule of Civil Procedure 15(a) and Local Rule 15.1. Note that any claims added to an amended



petition, like those in the original petition, must be both timely and fully exhausted in the state courts.

### **May I file a second habeas petition challenging my state-court conviction?**

If your § 2254 petition is deemed to be “second or successive,” you must receive authorization from the United States Court of Appeals for the Eighth Circuit before proceeding with your habeas claims in this Court. The Eighth Circuit is permitted to authorize only certain kinds of claims for review in a second or successive habeas petition. *See* 28 U.S.C. § 2244(b)(2). If you received a ruling on the merits of an initial habeas petition challenging your conviction, any subsequent habeas petition attacking the same conviction will likely be found to be second or successive.

That said, not all habeas petitions filed second in time are “second or successive” within the meaning of the relevant statute. For example, if your first habeas petition was denied without prejudice for failure to exhaust available state-court remedies, you may file a new petition again raising those claims after they have become exhausted without first receiving authorization from the Eighth Circuit.



## CHAPTER THREE: HOW TO START A § 2254 PROCEEDING

### What are the requirements to start a § 2254 proceeding?

To start a § 2254 proceeding in the District of Minnesota, you must do the following:

- Complete the habeas petition itself, either by using the Court’s form “Petition for Relief from a Conviction or Sentence by a Person in State Custody” or by writing your own document. You may also submit any exhibits you believe to be relevant.
- Complete a civil cover sheet (if available).
- Pay the \$5.00 filing fee or, if you cannot pay the fee, complete an Application to Proceed in District Court Without Prepaying Fees or Costs (“IFP application”); and
- Mail the documents and fee to the Clerk’s Office at the address provided in Chapter 1, above.

Keep a copy of all documents for your own records.

### How do I complete the habeas corpus petition form?

You are not required to use the Court’s standard habeas form, but that document will assist you in providing the information needed to decide your petition. Failure to include the necessary information could result in delay or dismissal of your proceedings. Your habeas petition, and all other documents prepared by you for the Court, should be typed or legibly handwritten, preferably in black ink.

### Can I file one habeas petition for judgments from multiple courts?

No. A petitioner who seeks relief from judgments entered in more than one court must file a separate petition covering the judgment(s) of each court. *See* Rule 2 of the Rules Governing § 2254 Cases.



### **Whom should I name as the respondent on the habeas corpus petition?**

The proper respondent in a proceeding governed by § 2254 is the warden or the custodian of the facility where you are held. *See* Rule 2(a) of the Rules Governing § 2254 Cases. The naming of an incorrect respondent generally will not, by itself, result in dismissal of the habeas petition.

### **How should I answer Question 12 (grounds for relief) on the habeas corpus petition?**

For each ground for relief, you should state the legal basis under which your claim arises. That basis must be founded in *federal* law, such as a constitutional provision, United States Supreme Court case, federal law, or treaty of the United States. The claim must be a claim that you have already raised in each level of the Minnesota state courts. The petition should include a brief description of the factual circumstances that are relevant to the claim.

### **May I file attachments with my petition?**

If you have documents that support your petition, you may attach copies of the documents to the petition as exhibits. The purpose of an exhibit is to present proof or clarification of an allegation in your petition. If you decide to attach exhibits to your petition, then you should explain or otherwise make clear why you are attaching each exhibit to the petition. You should label each separate exhibit and, if possible, number the pages of each exhibit.



### **May I file a memorandum of law with my petition?**

Yes. A memorandum of law, sometimes called a brief, is a document where you explain your legal arguments. You should only include arguments that support the claims raised in the petition. Pro se litigants may write their memoranda legibly by hand or type their memoranda on standard 8.5x11-inch paper. The memorandum should include page numbers. The Court's Local Rules limits memoranda to 12,000 words unless advance permission to file a longer memorandum is sought and received from the judge.

### **Do I need to notarize the petition?**

No, but you are required to sign all documents (except exhibits) filed with the Court, including your petition. By signing a document, you are attesting that the statements in your document are true to the best of your knowledge. Knowingly making a false material declaration under oath (perjury) can be punished by fine or imprisonment. *See* 18 U.S.C. § 1623. Notarization of court documents, however, is almost always unnecessary.

### **What is a civil cover sheet?**

The civil cover sheet is a form provided by the Clerk's Office and is used to gather information about the nature of your lawsuit. This form is included in the appendix to this Guidebook. You must file a civil cover sheet when you file your petition.



### **How do I pay the \$5.00 filing fee?**

You may submit your \$5.00 filing fee by check from your prison trust account and mail it to the Clerk's Office address provided in Chapter 1, above. Checks are payable to "Clerk, U.S. District Court."

### **What if I cannot afford the filing fee?**

If you cannot afford the \$5.00 filing fee, you may apply to proceed without prepaying the fee by completing and filing the AO239 form "Application to Proceed in District Court Without Prepaying Fees or Costs." This document is also referred to as an application to proceed *in forma pauperis*, or "IFP application" for short. This form is included in the appendix to this Guidebook. If your application is granted, you will not be required to pay the \$5.00 filing fee. *See* 28 U.S.C. § 1915. You will be notified of the judge's decision regarding your IFP application by mail.

### **Do I need to serve a copy of my petition?**

No. You do not need to serve the respondent a copy of your petition. The respondent will be notified of your petition when it is received and filed by the Court.

### **May I request appointment of counsel?**

Yes. Be aware, though, that there is no statutory or constitutional right to counsel in habeas corpus actions. If you file a motion to appoint counsel, you should explain the particular reasons that you believe appointment of counsel is necessary or appropriate in your case.



**What other documents should I file at the start of my case?**

The only documents required to initiate a habeas action are the habeas petition itself and IFP application (or \$5.00 filing fee). You may, but need not, file any other documents that you believe would be helpful to the Court in deciding your petition.

**How can I find out when my petition was received by the Clerk's Office?**

You may request in writing that the Clerk notify you when your petition was received and filed.



## CHAPTER FOUR: INITIAL REVIEW

### **What is initial review?**

Your habeas petition and IFP application (if one is submitted) will be reviewed by a judge or magistrate judge upon filing. The judge will dismiss the petition if it is clear that you are not entitled to relief. This initial review process may take several weeks.

### **How will I know the results of the initial review?**

If your petition is permitted to go forward, an order will be entered requiring the respondent to answer the petition. You will receive a copy of this order. If your petition is deficient, either an order of dismissal or a Report and Recommendation recommending dismissal will be entered. You will receive a copy of these documents also.

The Court's initial review is limited to the petition itself, attached exhibits, and other materials already part of the judicial record. Should the respondent be required to answer the petition, a review of the record may reveal grounds for dismissal that are not plainly apparent from the petition and exhibits.



## CHAPTER FIVE: THE HABEAS PROCEEDINGS

### **How will the Court get the state-court record in my case?**

If the judge orders the respondent to file an answer, the respondent must supply the Court with a copy of those portions of the state court record that the respondent believes relevant to the petition. *See* Rule 5, Rules Governing § 2254 Cases. For example, if the habeas corpus petition challenges only the legality of the sentencing, then the respondent may supply the Court with only the sentencing records, rather than the entire transcript of the trial. The respondent will not supply you with a copy of your state-court record. If the respondent does not lodge all portions of the state court record which you deem relevant to a determination of the claims, you can file a motion to expand the record under Rule 7 of the Rules Governing § 2254 cases. The Court may sometimes ask the respondent to supply additional documents from the state court as well.

### **May I reply to the respondent's answer?**

Yes. The Court's scheduling order will set a deadline for the filing of a reply brief.

### **Is discovery allowed?**

Sometimes, but you must request permission from the Court before conducting discovery. *See* Rule 6 of the Rules Governing Section 2254 Cases. Habeas petitions are usually resolved without formal discovery.



### **Will there be an evidentiary hearing?**

Probably not. The written record is usually enough for the Court to resolve the habeas petition, and federal courts are greatly restricted from receiving or considering evidence that is not part of the state-court record. *See* 28 U.S.C. § 2254(e)(2).

### **Will there be any hearing before the judge decides my case?**

Perhaps. The judges presiding over the case will determine whether oral argument by the parties is necessary.

### **How do I object to an adverse Report and Recommendation?**

If a magistrate judge issues a Report and Recommendation in your case and you disagree with the recommendation, Local Rule 72.2 provides that you have 14 days to file an objection. Your objection will be reviewed by the district judge assigned to the case. Your objection to the Report and Recommendation must be specific and relate to the magistrate judge's proposed findings and recommendations; new arguments are not permitted at this stage. Your objection may be no more than 3,500 words in length. *See* Local Rule 72.2(c). If you file an objection, the respondent is permitted to respond to your objection within 14 days after your objection is filed. Upon receiving your objection, the district judge assigned to the case will review the record and make a decision.



## CHAPTER SIX: JUDGMENT AND APPEAL

### What do I need to do to file an appeal?

Judgment will be entered after your case has become final. You will receive a copy of the judgment after it is entered, along with instructions on how to pursue an appeal with the United States Court of Appeals for the Eighth Circuit. An appeal may only be made after judgment has been entered in your case. The time for filing an appeal starts from the date that the judgment is entered on the docket.

Habeas corpus petitioners proceeding under § 2254 also must receive a certificate of appealability in order to pursue their claims before the appellate court. The district court will grant or deny a certificate of appealability when it enters the final order in your case that is adverse to you. *See* Rule 11 of the Rules Governing § 2254 Cases. If the district court grants you a certificate of appealability, then you may proceed and file a notice of appeal. If the district court judge denies you a certificate of appealability, then you may still file a notice of appeal, but the claims that you seek to raise on appeal will not be heard and decided unless the Court of Appeals grants you a certificate of appealability after your notice of appeal has been filed. *See* Rule 22(b) of the Federal Rules of Appellate Procedure. The district court will specify the claims to which the certificate of appealability applies.

### How do I file an appeal?

First, you must file a notice of appeal. A notice of appeal form is included in the appendix to this Guidebook. Second, you must pay the \$505.00 filing fee for the appeal.



As with the filing fee in the district court, if you cannot afford to pay this fee, you can apply to proceed without prepaying the fee by completing the AO239 form “Application to Proceed in District Court Without Prepaying Fees or Costs.” Even though you are seeking IFP status on appeal, you should file this application in the district court. If your application is granted, you will not be required to pay the \$505.00 filing fee.

If the district judge denies your motion to proceed IFP on appeal, you may ask the Eighth Circuit to proceed IFP within 30 days after service of this Court’s notice that your appellate IFP application was denied.

### **How much time do I have to begin my appeal?**

You must file your notice of appeal in this Court within 30 days after the judgment is entered. For additional information regarding the time for filing a notice of appeal, *see* Federal Rule of Appellate Procedure 4(a). There are many other steps to beginning and proceeding with your appeal, but they are governed by the Eighth Circuit’s Local Rules and the Federal Rules of Appellate Procedure, which are beyond the scope of this Guidebook.

### **May I request appointment of counsel on appeal?**

Yes, but your request should be filed with the Eighth Circuit. Be warned that there is no statutory or constitutional right to counsel on appeal in a habeas case.

## APPENDIX OF FORMS

The following forms are provided in the appendix of this Guidebook.

- ❖ Petition for Relief from a Conviction or Sentence by a Person in State Custody
- ❖ Civil Cover Sheet
- ❖ Application to Proceed in District Court Without Prepaying Fees or Costs
- ❖ Motion (do not file a motion seeking the same relief requested in the habeas petition.)
- ❖ Memorandum of Law
- ❖ LR 7.1 Word Count Compliance Certificate
- ❖ Certificate of Service by Mail
- ❖ Notice of Appeal

**Petition for Relief From a Conviction or Sentence  
By a Person in State Custody**

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

**Instructions**

1. To use this form, you must be a person who is currently serving a sentence under a judgment against you in a state court. You are asking for relief from the conviction or the sentence. This form is your petition for relief.
2. You may also use this form to challenge a state judgment that imposed a sentence to be served in the future, but you must fill in the name of the state where the judgment was entered. If you want to challenge a federal judgment that imposed a sentence to be served in the future, you should file a motion under 28 U.S.C. § 2255 in the federal court that entered the judgment.
3. Make sure the form is typed or neatly written.
4. You must tell the truth and sign the form. If you make false statement of a material fact, you may be prosecuted for perjury.
5. Answer all the questions. You do not need to cite law. You may submit additional pages if necessary. If you do not fill out the form properly, you will be asked to submit additional or correct information. If you want to submit a brief or arguments, you must submit them in a separate memorandum.
6. To start your § 2254 action, you must pay the \$5.00 filing fee or submit a completed Application to Proceed in District Court without Prepaying Fees or Costs form, including the certificate signed by an officer at the institution where you are confined. You may obtain the Application to Proceed in District Court without Prepaying Fees or Costs form by contacting the Clerk's Office.
7. In this petition, you may challenge the judgment entered by only one court. If you want to challenge a judgment entered by a different court (either in the same state or in different states), you must file a separate petition.
8. When you have completed the form, send the signed original to the following address:

United States District Court, District of Minnesota Clerk's Office  
U.S. Courthouse  
300 South Fourth Street, Suite 202  
Minneapolis, MN 55415

(612) 664-5000

9. **CAUTION:** You must include in this petition all the grounds for relief from the conviction or sentence that you challenge. And you must state the facts that support each ground. If you fail to set forth all the grounds in this petition, you may be barred presenting additional grounds at a later date.



(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to?

(c) If you went to trial, what kind of trial did you have? (Check one)

Jury     Judge only

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

Yes     No

8. Did you appeal from the judgment of conviction?

Yes     No

9. If you did appeal, answer the following:

(a) Name of court:

(b) Docket or case number (if you know):

(c) Result:

(d) Date of result (if you know):

(e) Citation to the case (if you know):

(f) Grounds raised:

(g) Did you seek further review by a higher state court?     Yes     No

If yes, answer the following:

(1) Name of court:

(2) Docket or case number (if you know):

(3) Result:

(4) Date of result (if you know):

(5) Citation to the case (if you know):

(6) Grounds raised:

(h) Did you file a petition for certiorari in the United States Supreme Court?  Yes  No

If yes, answer the following:

(1) Docket or case number (if you know):

(2) Result:

(3) Date of result (if you know):

(4) Citation to the case (if you know):

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court?  Yes  No

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court:

(2) Docket or case number (if you know):

(3) Date of filing (if you know):

(4) Nature of the proceeding:

(5) Grounds raised:

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

Yes  No

(7) Result:

(8) Date of result (if you know):

(b) If you filed any second petition, application, or motion, give the same information:

- (1) Name of court:
- (2) Docket or case number (if you know):
- (3) Date of filing (if you know):
- (4) Nature of the proceeding:
- (5) Grounds raised:

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

Yes     No

(7) Result:

(8) Date of result (if you know):

(c) If you filed any third petition, application, or motion, give the same information:

- (1) Name of court:
- (2) Docket or case number (if you know):
- (3) Date of filing (if you know):
- (4) Nature of the proceeding:
- (5) Grounds raised:

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

Yes     No

(7) Result:

(8) Date of result (if you know):

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition:     Yes     No

(2) Second petition:     Yes     No

(3) Third petition:     Yes     No

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:

12. For this petition, state every ground on which you 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.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

**GROUND ONE:**

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) If you did not exhaust your state remedies on Ground One, explain why:

(c) **Direct Appeal of Ground One:**

(1) If you appealed from the judgment of conviction, did you raise this issue?  Yes  No

(2) If you did not raise this issue in your direct appeal, explain why:

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes  No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion or petition?  Yes  No

(4) Did you appeal from the denial of your motion or petition?  Yes  No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?  Yes  No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One:

**GROUND TWO:**

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) If you did not exhaust your state remedies on Ground Two, explain why:

(c) **Direct Appeal of Ground Two:**

(1) If you appealed from the judgment of conviction, did you raise this issue?  Yes  No

(2) If you did not raise this issue in your direct appeal, explain why:

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes  No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion or petition?  Yes  No

(4) Did you appeal from the denial of your motion or petition?  Yes  No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?  Yes  No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you :  
have used to exhaust your state remedies on Ground Two

### **GROUND THREE:**

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) If you did not exhaust your state remedies on Ground Three, explain why?

(c) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue?  Yes  No

(2) If you did not raise this issue in your direct appeal, explain why:

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes  No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion or petition?  Yes  No

(4) Did you appeal from the denial of your motion or petition?  Yes  No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?  Yes  No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three:

**GROUND FOUR:**

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) If you did not exhaust your state remedies on Ground Four, explain why:

(c) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue?  Yes  No

(2) If you did not raise this issue in your direct appeal, explain why:

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes  No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion or petition?  Yes  No

(4) Did you appeal from the denial of your motion or petition?  Yes  No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?  Yes  No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four:

13. Please answer these additional questions about the petition you are filing:

- (a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction?  Yes  No

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them:

- (b) Is there any ground in this petition that has not been presented in some state or federal court? If so, ground or grounds have not been presented, and state your reasons for not presenting them:

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition?  Yes  No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available.

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging?  Yes  No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the raised.

16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:
- (a) At preliminary hearing:
  
  - (b) At arraignment and plea:
  
  - (c) At trial:
  
  - (d) At sentencing:
  
  - (e) On appeal:
  
  - (f) In any post-conviction proceeding:
  
  - (g) On appeal from any ruling against you in a post-conviction proceeding:
17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging?       Yes       No
- (a) If so, give name and location of court that imposed the other sentence you will serve in the future:
  
  - (b) Give the date the other sentence was imposed:
  - (c) Give the length of the other sentence:
  - (d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future?       Yes       No
18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.\*

---

\* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides in part that:

- (1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of -
  - (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
  - (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
  - (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
  - (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

Therefore, petitioner asks that the Court grant the following relief:

or any other relief to which petitioner may be entitled.

---

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on \_\_\_\_\_ (month, date, year).

Executed (signed) on \_\_\_\_\_ (date).

---

Signature of Petitioner

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition.

# CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

## DEFENDANTS

County of Residence of First Listed Defendant \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	FEDERAL TAX SUITS	
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	
		<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	

## V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation - Transfer
- 8 Multidistrict Litigation - Direct File

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

## VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ \_\_\_\_\_

CHECK YES only if demanded in complaint:  
JURY DEMAND:  Yes  No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

DATE \_\_\_\_\_

SIGNATURE OF ATTORNEY OF RECORD \_\_\_\_\_

## FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_

AMOUNT \_\_\_\_\_

APPLYING IFP \_\_\_\_\_

JUDGE \_\_\_\_\_

MAG. JUDGE \_\_\_\_\_

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

### Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.  
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.  
**PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

**UNITED STATES DISTRICT COURT**  
for the  
District of Minnesota

<i>Plaintiff/Petitioner</i> v.	)	
v.	)	Civil Action No.
<i>Defendant/Respondent</i>	)	

**APPLICATION TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING FEES OR COSTS  
(Long Form)**

<b>Affidavit in Support of the Application</b>	<b>Instructions</b>
<p>I am a plaintiff or petitioner in this case and declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief requested. I declare under penalty of perjury that the information below is true and understand that a false statement may result in a dismissal of my claims.</p> <p>Signed: _____</p>	<p>Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.</p> <p>Date: _____</p>

- For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly income amount during the past 12 months		Income amount expected next month	
	You	Spouse	You	Spouse
Employment	\$	\$	\$	\$
Self-employment	\$	\$	\$	\$
Income from real property <i>(such as rental income)</i>	\$	\$	\$	\$
Interest and dividends	\$	\$	\$	\$
Gifts	\$	\$	\$	\$
Alimony	\$	\$	\$	\$
Child support	\$	\$	\$	\$

AO 239 (01/09; Minn. Dist. Ct. MODIFIED 10/09) Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)

Retirement (such as social security, pensions, annuities, insurance)	\$	\$	\$	\$
Disability (such as social security, insurance payments)	\$	\$	\$	\$
Unemployment payments	\$	\$	\$	\$
Public-assistance (such as welfare)	\$	\$	\$	\$
Other (specify):	\$	\$	\$	\$
<b>Total monthly income:</b>	\$	\$	\$	\$

2. List your employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
			\$
			\$

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
			\$
			\$
			\$

4. How much cash do you and your spouse have? \$ \_\_\_\_\_

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial institution	Type of account	Amount you have	Amount your spouse has
		\$	\$
		\$	\$
		\$	\$

If you are a prisoner, you must have an authorized prison official complete the Certificate of Authorized Prison Official provided on Page 6 of this application. The certificate must be filed with this application.

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

<b>Assets owned by you or your spouse</b>	
Home ( <i>Value</i> )	\$
Other real estate ( <i>Value</i> )	\$
Motor vehicle #1 ( <i>Value</i> )	\$
Make and year:	
Model:	
Registration #:	
Motor vehicle #2 ( <i>Value</i> )	\$
Make and year:	
Model:	
Registration #:	
Other assets ( <i>Value</i> )	\$
Other assets ( <i>Value</i> )	\$

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

<b>Person owing you or your spouse money</b>	<b>Amount owed to you</b>	<b>Amount owed to your spouse</b>
	\$	\$
	\$	\$
	\$	\$

7. State the persons who rely on you or your spouse for support.

<b>Name (or, if under 18, initials only)</b>	<b>Relationship</b>	<b>Age</b>

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.

	You	Your spouse
Rent or home-mortgage payment <i>(including lot rented for mobile home)</i> Are real estate taxes included? <input type="checkbox"/> Yes <input type="checkbox"/> No Is property insurance included? <input type="checkbox"/> Yes <input type="checkbox"/> No	\$	\$
Utilities <i>(electricity, heating fuel, water, sewer, and telephone)</i>	\$	\$
Home maintenance <i>(repairs and upkeep)</i>	\$	\$
Food	\$	\$
Clothing	\$	\$
Laundry and dry-cleaning	\$	\$
Medical and dental expenses	\$	\$
Transportation <i>(not including motor vehicle payments)</i>	\$	\$
Recreation, entertainment, newspapers, magazines, etc.	\$	\$
Insurance <i>(not deducted from wages or included in mortgage payments)</i>		
Homeowner's or renter's:	\$	\$
Life:	\$	\$
Health:	\$	\$
Motor vehicle:	\$	\$
Other:	\$	\$
Taxes <i>(not deducted from wages or included in mortgage payments) (specify):</i>	\$	\$
Installment payments		
Motor vehicle:	\$	\$
Credit card <i>(name):</i>	\$	\$
Department store <i>(name):</i>	\$	\$
Other:	\$	\$
Alimony, maintenance, and support paid to others	\$	\$

Regular expenses for operation of business, profession, or farm ( <i>attach detailed statement</i> )	\$	\$
Other ( <i>specify</i> ):	\$	\$
<b>Total monthly expenses:</b>	\$	\$

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

Yes     No    If yes, describe on an attached sheet.

10. Have you paid — or will you be paying — an attorney any money for services in connection with this case, including the completion of this form?  Yes     No

If yes, how much? \$ \_\_\_\_\_

If yes, state the attorney's name, address, and telephone number:

11. Have you paid — or will you be paying — anyone other than an attorney (*such as a paralegal or a typist*) any money for services in connection with this case, including the completion of this form?  Yes     No

If yes, how much? \$ \_\_\_\_\_

If yes, state the person's name, address, and telephone number:

12. Provide any other information that will help explain why you cannot pay the costs of these proceedings.

13. Identify the city and state of your legal residence.

Your daytime phone number: \_\_\_\_\_

Your age: \_\_\_\_\_ Your years of schooling: \_\_\_\_\_

\_\_\_\_\_

**Prisoners:** The following Certificate page *must* be completed by an authorized prison official and provided with this application.

The following Certificate of Authorized Prison Official must be completed and filed with a prisoner's Application to Proceed without Prepayment of Fees and Affidavit for all incarcerated applicants. See 28 U.S.C. § 1915(a)(2) (a prisoner who applies to proceed without prepayment of fees must provide a certified copy of the trust fund account statement "obtained from the appropriate official of each prison at which the prisoner is or was confined"). The information provided below will be used by the Court in determining the proper initial partial filing fee as defined under 28 U.S.C. § 1915(b).

**CERTIFICATE of AUTHORIZED PRISON OFFICIAL**

I, \_\_\_\_\_, certify that the incarcerated applicant \_\_\_\_\_ (name of applicant) has the sum of \$ \_\_\_\_\_ on account to his/her credit at \_\_\_\_\_ (name of institution). I further certify that the applicant named herein has the following securities to his/her credit:

\_\_\_\_\_  
\_\_\_\_\_.

I further certify that in the 6-month period immediately preceding the filing of the complaint/petition/motion or notice of appeal, the average monthly deposits to the applicant's trust fund prison account was \$ \_\_\_\_\_, and the average monthly balance in the prisoner's account was \$ \_\_\_\_\_.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE OF AUTHORIZED OFFICIAL

---

---

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

Plaintiff(s),

vs.

Case No.

Defendant(s).

**MOTION TO/FOR**

---

The following party/parties:

in the above-named case hereby move(s) the United States District Court, District of Minnesota  
for an Order to:

because:

1.

2.

Said motion is based upon the attached Memorandum of Law,

and all of the files, records, and proceedings herein.

Signed this                      day of

Signature of Party \_\_\_\_\_

Mailing Address

Telephone Number

Note: All parties filing the motion must date and sign the Motion and provide his/her mailing address and telephone number. Attach additional sheets of paper as necessary. The motion must be served on each party, together with the notice of hearing, and any memorandum of law and accompanying documents.

---

---

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

Plaintiff(s),

vs.

Case No.

Defendant(s).

**Memorandum of Law**

**In Support of or In Opposition to**

(Check "In Support of" if you are filing the motion and "In Opposition to" if you are opposing the Motion that was filed.)

---

(Name of Motion filed)

Provide below an explanation of why the Motion should be granted or denied. Your explanation should be provided in consecutively numbered paragraphs. If you run out of space, you may attach additional sheets of paper and continue to number your paragraphs.

1.

2.

Signed this                    day of

Signature of Party \_\_\_\_\_

Mailing Address

Telephone Number

Note: All parties filing the Memorandum of Law must date and sign the Memorandum and provide his/her mailing address and telephone number. Attach additional sheets of paper as necessary. The Memorandum of Law must be served on each party, together with the Notice of Hearing, Motion and other accompanying documents, if any.

---

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

**LR 7.1(f) & LR 72.2(d)  
CERTIFICATE OF COMPLIANCE**

Plaintiff(s)

v.

Case Number:

Defendant(s)

---

I, *[name of filer]*, certify that the

Memorandum titled: \_\_\_\_\_  
complies with Local Rule 7.1(f).

or

Objection or Response to the Magistrate Judge's Ruling complies with Local Rule 72.2(d).

I further certify that, in preparation of the above document, I:

Used the following word processing program and version: \_\_\_\_\_  
and that this word processing program has been applied specifically to include all text,  
including headings, footnotes, and quotations in the following word count.

or

Counted the words in the document.

I further certify that the above document contains the following number of words: \_\_\_\_\_

Date: \_\_\_\_\_

*s/* \_\_\_\_\_  
*Name*

*Address 1*

*Address 2*

*Phone*

*Email*

*Bar ID*

---

---

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

Plaintiff(s),

vs.

**CERTIFICATE OF  
SERVICE FOR  
SERVICE BY MAIL**  
Case No.

Defendant(s).

(Enter the full name(s) of ALL plaintiffs  
and defendants in this lawsuit. Please  
attach additional sheets if necessary.)

I hereby certify that on \_\_\_\_\_, I caused the following documents:  
*[List documents to be filed and served]*

*[Check the box, below, that applies to how you served the above documents.]*

- to be filed electronically with the Clerk of Court through ECF and/or
- that I caused a copy of the foregoing documents and the notice of electronic filing  
to be mailed by first class mail, postage paid, to the following: *[List names and  
address of those served by U.S. Mail.]*

Date:

s/

---

**Signature of filing party**

Filer's Typed Name

---

---

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

Plaintiff(s),

vs.

Case No.

Defendant(s).

**NOTICE OF APPEAL**

Pursuant to Fed. R. App. P. 3(c)(1) and 4(a), notice is hereby given that the following parties  
(provide the names of all parties who are filing an appeal):

in the above-named case appeal to the United States Court of Appeals for the Eighth Circuit.

The above-named parties appeal from the \_\_\_\_\_ (indicate whether the  
appeal is from a *judgment* or an *order* of the District Court) of the U.S. District Court for the  
District of Minnesota that was entered on \_\_\_\_\_ (date judgment or order was  
entered) that:

(If the appeal is from an *order*, provide brief explanation, below, of the District Court's decision in the order. If you are appealing only a portion of the judgment or order, indicate below which part of the judgment or order you are appealing).

Signed this                      day of

Signature of Party \_\_\_\_\_

Mailing Address

Telephone Number

Note: All parties filing the appeal must date and sign the Notice of Appeal and provide his/her mailing address and telephone number, EXCEPT that a signer of a pro se notice of appeal may sign for his/her spouse and minor children if they are parties to the case. Fed. R. App. P. 3(c)(2). Attach additional sheets of paper as necessary.