



## How to Start a Habeas Corpus Case

**For federal prisoners or other persons in federal custody challenging the fact of or duration of their confinement, which was not directly caused by a judgment entered in a federal criminal case; and for state pre-trial detainees challenging their custody**

Petitions brought under 28 U.S.C. § 2241 usually involve one of the following situations: (1) a federal prisoner believes that the Bureau of Prisons (“BOP”) has wrongly computed his release date, (2) a federal prisoner believes that the BOP has wrongly taken away some of his “goodtime credits,” (thereby extending the duration of his confinement), (3) a federal prisoner is seeking an expedited transfer to a “residential re-entry center,” (i.e., a “half way house”), or (4) a person who is being detained by federal immigration authorities while awaiting deportation. State pre-trial detainees can also seek habeas relief by filing a § 2241 petition.

The Court has a Pro Se Guidebook for Petitions for Writ of Habeas Corpus Under 28 U.S.C. § 2241 by Persons in Federal Custody that you may consult for additional information. You may obtain a copy of this Guidebook by contacting the Clerk’s Office at the contact information provided at the end of this document.

### **For persons in custody under other circumstances:**

If you are in federal custody seeking post-conviction relief from a federal court judgment, you should file a motion under 28 U.S.C. § 2255. The Court has an information sheet and a Pro Se Guidebook for Motions Filed Under 28 U.S.C. § 2255 that you may consult for additional information. If you are in custody pursuant to a state court judgment and wish to challenge the validity of the judgment that caused you to be confined, you should file a habeas petition under 28 U.S.C. § 2254. The Court has a Pro Se Guidebook for Cases Filed Under 28 U.S.C. § 2254 that you may consult for additional information.

### **How do I file a § 2241 Petition?**

To start a case under 28 U.S.C. § 2241, the petitioner must submit the following to the Clerk’s Office:

1. A completed Petition for a Writ of Habeas Corpus under Title 28 U.S.C. § 2241 form.
2. A completed Civil Cover Sheet.
3. The \$5.00 filing fee **OR** request to waive the filing fee by submitting a completed Application to Proceed in District Court without Prepaying Fees or Costs form (IFP).



Copies of all necessary forms may be obtained by contacting the Clerk's Office at the contact information provided at the end of this document.

### **What are the requirements related to the filing fee?**

In order to initiate a habeas petition, the Clerk's Office must collect the \$5.00 filing fee. If you are unable to pay that amount, you must submit a completed Application to Proceed in District Court without Prepaying Fees or Costs form with your complaint. A magistrate judge will review the completed form and you will be notified of the judge's decision. If the judge grants your request, you will be considered as proceeding In Forma Pauperis or IFP. Permission to proceed IFP entitles a § 2241 petitioner to start a civil action without paying the filing fee, but it does not automatically entitle the petitioner to any other benefits, such as appointment of counsel, free copies of documents, etc.

### **What happens after the Court receives my documents?**

A magistrate judge will conduct an initial review of your case. See Rules 1(b) and 4 of the Rules Governing § 2254 Proceedings in the U.S. District Courts. Based on the review, the Court will either dismiss the action or authorize the action to proceed and notify you of the decision.

### **Do I need to serve the petition on the respondent?**

No. You do not need to serve the respondent a copy of your petition when it is filed. A copy of your petition will be served upon the respondent for you if the Court authorizes your petition to proceed.

### **May I amend my petition?**

Yes, but permission from the Court is required under certain circumstances, and the complaint must be amended by following the procedures in Federal Rule of Civil Procedure 15(a) and Local Rule 15.1.

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

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