



## Prisoner Appeals

The Court has four different guides concerning prisoner litigation, one for each of the following: civil rights (Section 1983/Bivens); Section 2254 habeas petition for persons in state custody; Section 2255 motion to vacate, set aside or correct sentence for persons in federal custody; and Section 2241 habeas petition for persons in federal custody and state pre-trial detainees. For more information on your specific type of case, please consult the applicable guide. You may obtain a copy of the guides by contacting the Clerk's Office using the contact information provided at the end of this document.

### When can I file an appeal in a prisoner case?

Generally, you may file an appeal after you have obtained the final judgment in your case. [Federal Rule of Appellate Procedure 4\(a\)](#) governs when a notice of appeal in a civil case must be filed. Notices of appeal must be filed with the district court within 30 days of when the judgment or order appealed from is entered. [See Rule 4\(a\)\(1\)\(A\), Rules of Appellate Procedure](#). When the United States or its officer or agency is a party, such as in a 2255 motion, the notice of appeal may be filed within 60 days after the judgment or order appealed from is entered. [See Rule 4\(a\)\(1\)\(B\), Rules of Appellate Procedure](#).

There is an exception to this rule, however, if your case concerns a habeas corpus petition under 28 U.S.C. §§ 2254 or 2255. To file an appeal in a habeas corpus action, you must first receive: (1) a final order that is adverse to you; and (2) a certificate of appealability from the district judge in the final order of your case. [See Rule 11, Rules Governing § 2254 Cases and Rule 11, Rules Governing § 2255 Proceedings](#). If the district court denies the certificate, you must seek a certificate of appealability from the Court of Appeals under Federal Rule of Appellate Procedure 22 when filing your appeal.

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

1. File a Notice of Appeal with the district court; and
2. Pay the \$505.00 filing fee **OR** request to waive the filing fee by submitting a completed "Prisoner Affidavit Accompanying Motion for Permission To Appeal" In Forma Pauperis."

**§§ 2241 and 2254 Cases:** If you were granted IFP status by the district court in your habeas case, you do not need to submit another IFP application with your notice of appeal.



**§ 2255 Cases:** If you were represented by appointed counsel at the end of your criminal case, you do not need to submit an IFP application on appeal because the filing fee for your appeal will automatically be waived, unless the judge specifically rules otherwise.

**Prisoner Civil Rights Cases:** You must submit another IFP application with your notice of appeal because the Court must determine the initial partial filing fee and subsequent installment payments required under the Prison Litigation Reform Act. See 28 U.S.C. § 1915(b).

You may contact the Clerk's Office to obtain a Notice of Appeal form. For information on filing a notice of appeal, review [Rules 3 and 4 of the Federal Rules of Appellate Procedure](#).

If the district court denies your IFP application on appeal, you may appeal this determination to the Eighth Circuit Court of Appeals by filing a Motion and Affidavit for Permission to Appeal in Forma Pauperis. You may obtain a copy of this form by contacting the Clerk of Court for the Eighth Circuit Court of Appeals at the following address and phone number:

Eighth Circuit Court of Appeals Clerk's Office  
Thomas F. Eagleton Courthouse  
Room 24.329  
111 South 10<sup>th</sup> Street  
St. Louis, MO 63102

Phone: (314) 244-2400

#### **How do I contact the District Court 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

Phone: (612) 664-5000