

INSTRUCTIONS

You should use this packet if:

- 1) You believe your federal constitutional rights have been violated; and
- 2) You wish to file a complaint under 42U.S.C. § 1983 in the United States District Court for the Northern District of Iowa; and
- 3) You do not have a licensed attorney to help you with your complaint.

This packet contains:

- 1) AO Pro Se 15 Complaint for Violations of Civil Rights (Non-Prisoner) Form
- 2) AO 240 (Application to Proceed in District Court without Prepaying Fees or Costs (Short Form)

§ 1983 or Habeas Corpus Action?

Both §1983 and the writ of habeas corpus can help persons who have been deprived of federal constitutional rights. However, if you are asking the court to restore good and honor time that was taken from you, you should file a habeas corpus action. (The court cannot do those things for you in a §1983 action.) In a habeas corpus action, you must ask the state courts to help you before you ask for the federal court's help. This is not required for a §1983 action.

DO NOT USE THE FORMS IN THIS PACKET TO APPLY FOR A WRIT OF HABEAS CORPUS. Separate forms are available from the Clerk of Court upon request.

The Correct Court and the Correct Defendants

Your complaint can be filed in the United States District Court for the Northern District of Iowa only if one or more of the defendants is located in this district, or if the facts of your complaint took place in this district.

A defendant in a §1983 action must be a person who acted "under color of" state law. This generally means that the person is either a state official, a state employee, or someone else who acted for the state or under some power given to him by the state.

(This is not a complete statement of the law on this subject, but is intended only as guidance.)

In order for a supervisory official to be a proper defendant, you must have some proof that such person either: 1) personally did some act that harmed you, or 2) harmed you by personally failing to do something he should have done, or 3) authorized (in words or otherwise) someone else's conduct which harmed you, or 4) was aware of someone else's conduct which harmed you, and acquiesced in (went along with) that conduct in some way.

It is important that you give the correct name and work address, if known, of each person you name as a defendant, so that each of those personal can be notified of your complaint.

Filling out the Forms

Your forms may be filled out by hand or by typewriter. If handwriting is used, it must be clear and readable. If printing would be easier for the court to read, please print. Every question on the forms should be answered, even if your answer is "none", "don't know", or "N/A" (not applicable).

Your complaint will be most effective if you: 1) state your claim briefly and plainly, and 2) tell the court only about the claim or claims you truly believe to be most important. Stick to the FACTS (who, what, where, when and how). **The complaint should not contain legal arguments or case citations.**

If you need more space to answer a question, you may use the back side of the form or an extra blank page. However, if you keep your answers brief and to the point, as recommended above, extra space should not be needed in most cases.

You, the plaintiff, must personally sign the complaint, and if there is more than one plaintiff, each of you must sign. If a person other than a named plaintiff helped you with your complaint, that person must sign in the place indicated under Part VII.

Additional Claims

If, in addition to your § 1983 claim, you have other claims against one or more of the defendants, you may state those claims on a separate sheet of paper which you attach to the complaint form. Write the heading Additional Claims at the top of the sheet. If you happen to know the name or number of a statute that you think applies to your additional claim, you may state it. It is not necessary, however, that you do so. If you just state the facts, the court will determine what federal or state law claims can be decided in federal

court. Do NOT include any habeas corpus claims with this complaint. Those claims should be filed separately on a special habeas corpus form which the Clerk of Court can send to you upon request.

Other Instructions

There is a fee of \$402.00 for filing your complaint. You will also be required to pay the cost of notifying each defendant on your complaint. If you feel you cannot pay the full filing fee and service costs for this action, you should fill out AO 240 (Application to Proceed in District Court without Prepaying Fees or Costs (Short Form) attached hereto. If there is more than one plaintiff, each plaintiff must complete a separate AO 240 form. The completed form(s) must be signed and returned to the Clerk of Court with the completed Pro Se 15 form. If the Application to Proceed in District Court Without Prepaying Fees or Costs is granted, no filing fee will be due.

Mail your Pro Se 15 complaint to the address below. With your complaint you must send either a check/money order for \$402.00 or a completed and signed AO 240 form. When all forms have been received, the Clerk of Court open a case and assign it to a judge.

Mailing Address: Clerk of Court
United States District Court
Northern District of Iowa
111 7th Avenue SE, Box 12
Cedar Rapids IA 52401

Your complaint will not be considered by the court unless you have followed these instructions and those instructions on the forms themselves.

UNITED STATES DISTRICT COURT
for the

Plaintiff/Petitioner
v.
Defendant/Respondent
Civil Action No.

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

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.

In support of this application, I answer the following questions under penalty of perjury:

1. If incarcerated. I am being held at:
If employed there, or have an account in the institution, I have attached to this document a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months for any institutional account in my name. I am also submitting a similar statement from any other institution where I was incarcerated during the last six months.

2. If not incarcerated. If I am employed, my employer's name and address are:

My gross pay or wages are: \$
, and my take-home pay or wages are: \$ per
(specify pay period)

3. Other Income. In the past 12 months, I have received income from the following sources (check all that apply):

- (a) Business, profession, or other self-employment
(b) Rent payments, interest, or dividends
(c) Pension, annuity, or life insurance payments
(d) Disability, or worker's compensation payments
(e) Gifts, or inheritances
(f) Any other sources

If you answered "Yes" to any question above, describe below or on separate pages each source of money and state the amount that you received and what you expect to receive in the future.

4. Amount of money that I have in cash or in a checking or savings account: \$ _____ .

5. Any automobile, real estate, stock, bond, security, trust, jewelry, art work, or other financial instrument or thing of value that I own, including any item of value held in someone else's name (*describe the property and its approximate value*):

6. Any housing, transportation, utilities, or loan payments, or other regular monthly expenses (*describe and provide the amount of the monthly expense*):

7. Names (or, if under 18, initials only) of all persons who are dependent on me for support, my relationship with each person, and how much I contribute to their support:

8. Any debts or financial obligations (*describe the amounts owed and to whom they are payable*):

Declaration: I declare under penalty of perjury that the above information is true and understand that a false statement may result in a dismissal of my claims.

Date: _____

Applicant's signature

Printed name

UNITED STATES DISTRICT COURT

for the

_____ District of _____

_____ Division

Case No. _____

(to be filled in by the Clerk's Office)

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Jury Trial: (check one) Yes No

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS (Non-Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name _____
Address _____

City State Zip Code
County _____
Telephone Number _____
E-Mail Address _____

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name _____
Job or Title *(if known)* _____
Address _____

City State Zip Code
County _____
Telephone Number _____
E-Mail Address *(if known)* _____

Individual capacity Official capacity

Defendant No. 2

Name _____
Job or Title *(if known)* _____
Address _____

City State Zip Code
County _____
Telephone Number _____
E-Mail Address *(if known)* _____

Individual capacity Official capacity

Defendant No. 3

Name _____
Job or Title (if known) _____
Address _____

City State Zip Code
County _____
Telephone Number _____
E-Mail Address (if known) _____

Individual capacity Official capacity

Defendant No. 4

Name _____
Job or Title (if known) _____
Address _____

City State Zip Code
County _____
Telephone Number _____
E-Mail Address (if known) _____

Individual capacity Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

- Federal officials (a *Bivens* claim)
- State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

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- D. Section 1983 allows defendants to be found liable only when they have acted “under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia.” 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.
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III. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. Where did the events giving rise to your claim(s) occur?
-

- B. What date and approximate time did the events giving rise to your claim(s) occur?
-

- C. What are the facts underlying your claim(s)? (*For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?*)
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IV. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

V. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: _____

Signature of Plaintiff _____

Printed Name of Plaintiff _____

B. For Attorneys

Date of signing: _____

Signature of Attorney _____

Printed Name of Attorney _____

Bar Number _____

Name of Law Firm _____

Address _____

_____ *City* _____ *State* _____ *Zip Code*

Telephone Number _____

E-mail Address _____