



## HOW TO BEGIN A SECTION 2241 ACTION

### **For state pre-trial detainees challenging their custody or persons in federal custody challenging the fact of or duration of their confinement not directly caused by a judgment in a federal criminal case**

A petition brought under 28 U.S.C. § 2241 (“Section 2241”) may be used to challenge the fact or duration of a prisoner’s confinement. Section 2241 petitions generally concern matters such as parole procedures, sentence computation, or loss of credits that extend the duration of confinement. For example, you might want to file a Section 2241 petition if:

- You are a federal prisoner who believes that the Bureau of Prisons (“BOP”) wrongly computed your release date;
- You are a federal prisoner who believes that the BOP has not given you all of the credits to which you are entitled;
- You are a federal prisoner who wants an expedited transfer to a residential re-entry center or “halfway house”;
- You are a person who is being detained by federal immigration authorities while awaiting deportation; or
- You are a state pre-trial detainee who believes you are being held in violation of the Constitution or laws of the United States.

### **For persons who are in custody under other circumstances**

If you are in a federal prison, or otherwise “in custody” as a result of a conviction in a federal court, and you want the federal district court to set aside your conviction or sentence because you think your conviction or sentence violates the Constitution or laws of the United States, you may file a motion to vacate, set aside, or correct sentence under 28 U.S.C. § 2255. Ask the Clerk’s Office to send you an Information Sheet and Pro Se Handbook for Actions Filed Under 28 U.S.C. § 2255.

If you are in jail or prison, or otherwise “in custody” as a result of a conviction in a state court, and you want the federal district court to set aside your state court conviction or sentence because you think your conviction or sentence violates the Constitution or laws of the United States, you may file a petition for writ of habeas corpus under 28 U.S.C. § 2254. Ask the Clerk’s Office to send you an Information Sheet and Pro Se Handbook for Actions Filed Under 28 U.S.C. § 2254.

### **How do I begin a Section 2241 action?**

To begin a Section 2241 habeas corpus action in the Middle District of Tennessee, you must do the following:

- Complete a petition for a writ of habeas corpus under 28 U.S.C § 2241;
- Complete a Civil Cover Sheet form;
- Pay the \$5.00 filing fee or complete an Application to Proceed in District Court Without Prepaying Fees or Costs; and
- File these documents with the Clerk’s Office.

You can obtain the needed forms by contacting the Clerk’s Office using the contact information provided at the end of this document.



**Is there a fee for filing a Section 2241 petition?**

Yes. The filing fee is \$5.00.

**What if I can't afford the filing fee?**

If you cannot afford to pay the filing fee, you can file a prisoner Application to Proceed in District Court Without Prepaying Fees or Costs, or an IFP application as it is often called. You can get this application from the Clerk's Office.

If the Court grants your IFP application, you will not have to pay the filing fee. However, you still will be responsible for other costs in your case.

If the Court denies your IFP application, the Court will give you a deadline by which you must pay the filing fee in order to continue with your action. If you fail to pay the \$5.00 filing fee within the time provided, the Court may dismiss your action.

The Court will review your IFP application, and you will be notified of the judge's decision by mail.

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

Your case will be given a civil action number and be assigned to a particular judge. The judge to whom your case is assigned will review your petition to make sure you have submitted it to the Court properly. If you did not submit your petition properly, the Court will enter a deficiency order telling you what is wrong with your petition and tell you how long you have to fix what is wrong.

Next, the judge will conduct an initial review of your petition. This review is required by Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts, which applies to Section 2241 cases. The Court will either dismiss your petition or allow you to proceed. You will be notified of the Court's decision by mail.

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

No. You are not required to serve a copy of your petition when you file it. The Court will serve a copy of your petition on the respondent if the Court authorizes your petition to proceed.

**What if I want to change my petition after I file it?**

The Court may allow you to amend, or change, your petition. Under certain circumstances, you must obtain permission from the Court before amending your petition. Follow Federal Rule of Civil Procedure 15(a) and Local Rule 15.01 if you want to amend your petition.

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

Clerk's Office  
United States District Court, Middle District of Tennessee  
801 Broadway  
Nashville, TN 37203

You can call the Clerk's Office at (615) 736-5498. Select Option 1 for case information. Select Option 0 to speak to the operator.