

INSTRUCTIONS FOR PRISONERS FILING A COMPLAINT UNDER 42 U.S.C. § 1983

This packet includes one copy each of a complaint form and *in forma pauperis* affidavit. To initiate a lawsuit, you must submit both. Any additional copies of the complaint must be identical to the original, including any attachments or exhibits.

You must complete these forms in accordance with the following instructions when filing the same in the Middle District of Georgia. The Court will not process your complaint if it does not conform to these instructions.

Your complaint can be brought in this Court only if one or more of the named defendants resides in this district. Further, it is necessary for you to file a separate complaint for each claim that you raise unless the claims are all related to the same incident or issue.

The Court requires parties instituting civil actions to pay a filing fee of \$350.00. If you are unable to prepay the full fee of \$350.00, you may ask the Court to allow you to proceed *in forma pauperis*. Two blank affidavits are included for this purpose. Your affidavit should include a certified copy of your inmate trust account statement for the six (6) month period immediately preceding the filing of your complaint. Even if you are granted leave to proceed *in forma pauperis*, you must still pay the full \$350.00 filing fee, but the fee will be paid in installments.

EVEN IF YOUR CASE IS DISMISSED, YOU WILL STILL BE REQUIRED TO PAY THE ENTIRE FILING FEE.

You must give FACTS in your complaint and not conclusions. For example, a complaint setting forth conclusions would be: "The guard beat me up; the doctor denied me the right to obtain necessary medical treatment." A complaint setting forth specific facts would be: "On March 1, 2005 at 5 p.m., guard John Doe struck me in the face with his fist. As a result, I suffered a broken nose. This happened inside Building A. Prisoner Joe Jones was standing next to me and saw the guard hit me." **DO NOT INCLUDE LEGAL ARGUMENTS OR CITATIONS IN YOUR COMPLAINT.** Any legal arguments and case citations can be submitted separately.

When you have completed these forms, mail them to:

Gregory Leonard
Clerk, U.S. District Court
Middle District of Georgia
P.O. Box 128
Macon, GA 31202

You are not required to provide Marshal's Service of Process forms (USM-285) when you submit your lawsuit. If you are allowed to proceed *in forma pauperis*, the Clerk will serve all process for you.

It is your responsibility to **KEEP THE CLERK INFORMED OF CHANGES IN YOUR ADDRESS.** Include a reference to the civil action number of your complaint and your present address in all correspondence with the Clerk or the Court.

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
_____ DIVISION**

**QUESTIONNAIRE FOR THE PRISONERS PROCEEDING
PRO SE UNDER 42 U.S.C. § 1983**

(GIVE FULL NAME AND PRISON NUMBER OF PLAINTIFF)

Plaintiff

VS.

(NAME OF EACH DEFENDANT)

Defendant(s)

CIVIL ACTION NO:

I. GENERAL INFORMATION

1. Your full name and prison number _____

2. Name and location of prison where you are now confined _____

3. Sentence you are now serving (how long?) _____

(a) What were you convicted of? _____

(b) Name and location of court which imposed sentence _____

(c) When was sentence imposed? _____

(d) Did you appeal your sentence and/or conviction? Yes No

(e) What was the result of your appeal? _____

(f) Approximate date your sentence will be completed _____

II. PREVIOUS LAWSUITS

NOTE: FAILURE TO DISCLOSE ALL PRIOR CIVIL CASES MAY RESULT IN THE DISMISSAL OF THIS CASE. IF YOU ARE UNSURE OF ANY PRIOR CASES YOU HAVE FILED, THAT FACT MUST BE DISCLOSED AS WELL.

4. Other than an appeal of your conviction or sentence, and other than any habeas action, have you filed a lawsuit dealing with the same or similar facts or issues that are involved in this action?

Yes No

5. If your answer to question 4 is "Yes," list that lawsuit below, giving the following information:

(IF YOU HAVE FILED MORE THAN ONE LAWSUIT, LIST OTHER LAWSUITS ON A SEPARATE SHEET OF PAPER, GIVING THE SAME INFORMATION FOR EACH)

(a) **Parties to the previous lawsuit INVOLVING SAME FACTS:**

Plaintiff(s): _____

Defendant(s): _____

(b) **Name of Court:** _____

(c) **Docket Number:** _____ **When did you file this lawsuit?** _____

(d) **Name of judge assigned to case:** _____

(e) **Is this case still pending?** Yes No

(f) **If your answer to (e) is "No", when was it disposed of and what were the results?**

(DID YOU WIN? WAS THE CASE DISMISSED? DID YOU APPEAL?)

6. Other than an appeal of your conviction or sentence, and other than any habeas action, have you ever filed any lawsuit while incarcerated or detained? Yes No

7. If your answer to question 6 is "Yes," list that lawsuit below, giving the following information:

(IF YOU HAVE FILED MORE THAN ONE LAWSUIT, LIST OTHER LAWSUITS ON A SEPARATE SHEET OF PAPER, GIVING THE SAME INFORMATION FOR EACH)

(a) **Parties to the previous lawsuit:**

Plaintiff(s): _____

Defendant(s): _____

(b) **Name of Court:** _____

(c) **Docket Number:** _____ **When did you file this lawsuit?** _____

(d) **Name of judge assigned to case:** _____

(e) **Is this case still pending?** Yes No

(f) If your answer to (e) is "No", when was it disposed of and what were the results?
(DID YOU WIN? WAS THE CASE DISMISSED? DID YOU APPEAL?)

8. AS TO ANY LAWSUIT FILED IN ANY FEDERAL COURT in which you were permitted to proceed *in forma pauperis*, was any suit dismissed on the ground that it was frivolous, malicious, or failed to state a claim? Yes No

If your answer is Yes, state the name of the court and docket number as to each case:

_____	_____
_____	_____
_____	_____
_____	_____

III. PLACE OF INCIDENT COMPLAINED ABOUT

9. Where did the matters you complain about in this lawsuit take place? _____

(a) Does this institution have a grievance procedure? Yes No

(b) If your answer to question 9(a) is "Yes", answer the following:

(1) Did you present your complaint(s) herein to the institution as a grievance?

Yes No

(2) If Yes, what was the result? _____

(3) If No, explain why not: _____

(c) What, if anything else, did you do or attempt to do to bring your complaint(s) to the attention of prison officials? Give dates and places and the names of persons talked to.

(d) Did you appeal any denial of your grievance to the highest level possible in the prison system? Yes No

(1) If Yes, to whom did you appeal and what was the result? _____

(2) If No, explain why you did not appeal: _____

10. In what other institutions have been confined? Give dates of entry and exit.

IV. PARTIES TO THIS LAWSUIT

11. List your CURRENT place of incarceration/ mailing address.

12. List the full name, the official position, and the place of employment of each defendant in this lawsuit. (ATTACH ADDITIONAL PAGES IF NECESSARY)

14. List the name and address of every person you believe was a WITNESS to the incident(s) you complain about, BRIEFLY stating what you believe each person knows from having seen or heard what happened. (USE ADDITIONAL SHEETS, IF NECESSARY)

15. BRIEFLY state exactly what you want the court to do for you. That is, what kind of relief are you seeking in this lawsuit? Do not make any legal arguments and do not cite any cases or statutes! (USE ADDITIONAL SHEETS, IF NECESSARY)

16. You may attach additional pages if you wish to make any legal argument. However, legal arguments are NOT required in order for you to obtain relief under §1983. If the court desires legal argument from you, it will request it. If any defendant presents a legal argument, you will be afforded an opportunity to respond thereto.

17. KEEP IN MIND THAT ONCE YOUR LAWSUIT IS FILED, THE COURT WILL REQUIRE YOU TO DILIGENTLY PROSECUTE IT. That means that you will be required to go forward with your case without delay. Thus, if you fail to adequately prepare your case before you file it, you may find your lawsuit dismissed for failure to prosecute if you take no action once it is filed. YOU WILL RECEIVE NO FURTHER INSTRUCTIONS FROM THE COURT TELLING YOU WHAT TO DO OR HOW TO DO IT! IT IS YOUR RESPONSIBILITY AND YOURS ALONE TO PROSECUTE YOUR OWN CASE! If you fail to prosecute your case, it will be dismissed under Rule 41 of the Federal Rules of Civil Procedure.

Signed this _____ day of _____, 20_____.

PLAINTIFF

*IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
DIVISION*

(Plaintiff/Petitioner)
vs.

(Defendant(s)/Respondent(s))

⋮
⋮
⋮
⋮
⋮
⋮
⋮
⋮
⋮
⋮

CIVIL ACTION NO:

MOTION TO PROCEED
WITHOUT PREPAYMENT OF FEES
AND AFFIDAVIT

I, _____, being first duly sworn, depose and say that I am the plaintiff in the above-entitled case. As such, I motion to the Court to be allowed to proceed without the requirement to pre-pay fees or costs or give security due to my poverty which results in my inability to pay the costs of said proceeding or to give security. For this reason, I believe I am entitled to redress.

I further declare that the responses which I make to the questions and instructions below are true.

1. Are you presently employed? Yes No
- a. If the answer is yes, state the amount of your salary or wages per month and
 give the name and address of your employer.

- b. If the answer is no, state the date you last worked and the amount of salary
 or wages per month which you received.

2. Have you received within the past TWELVE (12) months any money from any of the following sources?

- | | | |
|--|-----|----|
| a. Business, profession, or form of self-employment? | Yes | No |
| b. Pension, annuities, or life insurance payments? | Yes | No |
| c. Rent payments, interest, or dividends? | Yes | No |
| d. Gifts or inheritances? | Yes | No |
| e. Any other sources? | Yes | No |

If the answer to any of the above is yes, describe each source of money received and state the amount received from each during the past TWELVE (12) MONTHS.

3. Do you have any cash, or do you have money in a checking, savings, or prison account? (You must attach a certificate from prison authorities if you have money in a prison account).

Yes No If yes, how much do you have?
\$ _____

4. Do you own any real estate (house and/or property), stocks, bonds, notes, auto-mobiles, or other valuable property, excluding ordinary household goods and furnishings? Yes No

a. If the answer is yes, describe the property and state its approximate value.

b. If the answer is yes, list any mortgages, liens, or loans against the property and state the amount you owe.

5. List the persons who are dependent upon you for their support. State your relationship to those persons and indicate how much you contribute toward their support.

Signed this _____ day of _____, 20_____.

(Signature of Plaintiff)

DECLARATION UNDER PENALTY OF PERJURY

YOU MUST DECLARE UNDER PENALTY OF PERJURY THAT THE ANSWERS YOU HAVE GIVEN IN THE ATTACHED MOTION/AFFIDAVIT FORM ARE TRUE AND CORRECT. GIVING A FALSE ANSWER OR FALSE INFORMATION IN RESPONSE TO ANY QUESTION WILL SUBJECT YOU TO FEDERAL PERJURY CHARGES. 18 U.S.C. § 1621 PROVIDES AS FOLLOWS:

Whoever -

...

(2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 or title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true;

is guilty of perjury and shall, except as otherwise expressly provided by law, be fined not more than \$2,000 or imprisoned not more than five years or both. This section is applicable whether the statement or subscription is made within or without the United States.

Understanding the above, I declare under penalty of perjury that the foregoing answers and information provided by me in support of my request to proceed *in forma pauperis* are true and correct.

Executed this _____ day of _____, 20_____.

(Signature of Plaintiff)

RETURN TO:

**GREGORY J. LEONARD, CLERK
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
P.O. BOX 128
MACON, GEORGIA 31202**

RE:

(Plaintiff)

(Prisoner Number)

ACCOUNT CERTIFICATION

I hereby certify that the plaintiff/petitioner named herein above has an average monthly balance for the last six (6) months of \$ _____ in account to his/her credit at the _____ institution where he/she is confined. I further certify that the plaintiff/petitioner likewise has the following securities to his/her credit according to the records of this institution: _____

(If not confined for a full six (6) months, specify the number of months confined, then compute the average monthly balance based on that number of months): _____

PRESENT BALANCE ON HAND IN PRISONER ACCOUNT: \$ _____

Dated this _____ day of _____, 20_____.

(Authorized Officer of Institution)

(Title)

PLEASE ATTACH A COMPUTER PRINTOUT OF THE ACCOUNT AVAILABLE