



UNITED STATES DISTRICT COURT FOR THE DISTRICT OF HAWAII INSTRUCTIONS FOR FILING A PRISONER CIVIL RIGHTS COMPLAINT

I. General Information About the Civil Rights Complaint Form:

A. The Form

The civil rights complaint form is designed to help prisoners prepare a complaint seeking relief for a violation of their federal civil rights. Your complaint must be typewritten or legibly handwritten. All information must be clear and concise, and written only in the space provided on the form. If needed, you may attach no more than fifteen [15] additional pages of standard letter size paper to continue any part of the complaint. You must identify which part of the complaint is being continued and consecutively number all pages as directed on the form.

B. Your Signature

You must sign and date the complaint. Your signature certifies that: 1) you have read the complaint; 2) to the best of your knowledge, information, and belief formed after reasonable inquiry, it is well grounded in fact and law; and 3) it is not being filed for any improper purpose. Rule 11 of the Federal Rules of Civil Procedure (“Fed. R. Civ. P.”), provides for the imposition of sanctions if the complaint is signed in violation of the Rule.

C. The Filing Fee

You must pay the statutory filing fee for when you commence civil action in federal court. The filing fee for a civil action is currently \$402.00. If you are unable to pay the filing fee when the complaint is filed, you may request leave to proceed in forma pauperis. Please review the “Information for Prisoners Seeking to Proceed In Forma Pauperis” for more information. If your in forma pauperis application is granted, the U.S. Marshals Service will serve your complaint.

If you are denied in forma pauperis status, you will be required to pay the filing fee within a certain amount of time. Failure to do so will result in dismissal of your action without prejudice for failure to prosecute. *See Fed. R. Civ. P. 41(b).*

Mail the **ORIGINAL AND TWO COPIES** of your complaint with the \$402.00 filing fee or a completed in forma pauperis application to: **Clerk, U.S. District Court, District of Hawaii, 300 Ala Moana Blvd., Room C-338, Honolulu HI 96850-0338**

D. Certificate of Service

You must serve the opposing party (or their attorney) with a copy of any document you submit to the court (except the initial complaint if you are proceeding in forma pauperis, and the in forma pauperis application). Pursuant to Fed. R. Civ. P. 5(a) and (d), each original document (except the initial complaint and in forma pauperis application) must include a certificate of service on the last page of the document stating the date a copy of the document is mailed to the opposing party and the address to which it was mailed. Any document received by the court which does not include a certificate of service may be stricken. A certificate of service should be in the following form:

I hereby certify that a copy of the foregoing document was mailed
this _____ day of _____, _____ to:
(month) (year)

Name: _____

Address: _____
Attorney for Defendant(s)/Respondent(s)

(Signature)

Generally, until your complaint has been served, either by you or by the U.S. Marshal, you should not file any motions or requests with the court with the exception of motions for appointment of counsel and for leave to proceed in forma pauperis.

E. Screening the Complaint

The court must conduct a preliminary screening in any case in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). This screening is done in all prisoner actions regardless of in forma pauperis status. In its review, the court must identify cognizable claims and dismiss claims that are frivolous, malicious, fail to state a claim upon which relief may be granted, or seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. §§ 1915(e)(2)(b) & 1915A(b). The court also screens all complaints in which the plaintiff is proceeding in forma pauperis. 28 U.S.C. § 1915(e)(2).

If you are proceeding in forma pauperis, the court will not order the U.S. Marshal to serve your complaint until it has been screened. As noted above, you should not file motions, letters, or requests, with the exception of motions for appointment of counsel and for leave to proceed in forma pauperis, until your complaint has been served.

F. Original and Return Copy

All prisoner complaints, petitions, or motions challenging a conviction or sentence shall be signed under penalty of perjury and legibly written or typewritten on approved court forms available on the court's website or from the clerk's office. Documents that do not substantially conform to court forms may be stricken or dismissed. A file stamped copy of each document will be returned to you. *See* LR99.2

G. Exhibits

You should not submit exhibits with the complaint. Instead, the relevant information should be paraphrased in the complaint. You should keep the exhibits to use to support or oppose a motion for summary judgment or for use at trial. You should also not submit original documents, such as letters or birth certificates, as exhibits to your complaint or motions. Original documents are for your records.

H. Change of Address

You must immediately notify the Clerk of Court and the opposing party or their attorney in writing of any change in your mailing address. Failure to notify the court of any change in your mailing address may result in the dismissal of your case.

I. Amended Complaint

If you need to change any of the information in the initial complaint, you may file an

amended complaint. The amended complaint must be written on the Court's approved civil rights complaint form. Rule 15 allows you to file *one* amended complaint without leave of court prior to any defendant filing an answer. Fed. R. Civ. P. 15(a). After any defendant has filed an answer, you must file a motion for leave to amend and lodge a proposed amended complaint with the court. *See* Fed. R. Civ. P. 16; Local Rule LR10.4 If you seek to file an amended complaint after the Rule 16 scheduling order deadline has passed, you must show "good cause" for your failure to amend within the deadline. After screening your complaint pursuant to 28 U.S.C. § 1915A, the court may also order you to file an amended complaint. If so, you need not file a motion to do so, simply file the amended complaint. An amended pleading must be complete in itself, and cannot reference any prior pleading. Local Rule LR10.4. Any allegations or defendants that are not included in the amended complaint are therefore considered dismissed.

J. Letters and Motions

It is generally inappropriate to write a letter to any of the District or Magistrate Judges, or their staff. The appropriate way to communicate with the court is by filing a written pleading or motion. Refer to the Federal Rules of Civil Procedure and the Local Rules for the United States District Court for the District of Hawaii, when filing a motion, and for any other information.

All motions must be in the form required by the Federal Rules of Civil Procedure and the Local Rules for the United States District Court for the District of Hawaii. All motions must contain a caption, with the court's name, the motion's title, and the civil file number. *See* Fed. R. Civ. P. 7 & 10. All motions must be signed and must also contain a certificate of service attesting that the opposing party has been served with a copy. *See* Fed. R. Civ. P. 5 & 11.

II. Completing the Civil Rights Complaint Form:

CAPTION:

1. Your Name. Print your name, prison or jail inmate number, and current mailing address.

2. Defendants. Print the names of each of defendant. If you name more than four defendants, print the names of the first four on the complaint, then write "see additional page for defendants" underneath. On the additional page, list the names of all of the defendants. Insert this additional page after page 1 and number it page "1A, etc." Your complaint must contain the names of all of the parties (plaintiffs as well as defendants) in the heading (or on the additional page if there are more than four defendants). *See* Fed. R. Civ. P. 10(a).

3. Jury Demand. If you want a jury trial, write "**JURY TRIAL DEMANDED**" on the line below "**CIVIL RIGHTS COMPLAINT BY A PRISONER.**" Failure to do so may result in the loss of right to a jury trial. A jury trial is not available if you are seeking only injunctive relief.

Part A. JURISDICTION:

1. Nature of Suit. Mark whether you are filing the complaint pursuant to 42 U.S.C. § 1983 for state, county, or city defendants; “Bivens vs. Six Unknown Federal Narcotics Agents” for federal defendants; or “other.” If you mark “other,” identify the source of that authority.

2. Plaintiff. Print the requested information on the spaces provided. Identify the institution and city where the alleged violation of your rights occurred.

3. Defendants. Print the requested information about each of the defendants in the spaces provided. If you are naming more than three defendants, you must provide this information about each additional defendant on a separate page. Label the page(s) as “2A, 2B,” etc., at the bottom of the page and insert the additional page(s) immediately behind page 2.

Part B. PREVIOUS LAWSUITS:

Identify any other lawsuit you have filed while you were a prisoner. Print all of the requested information about each lawsuit in the spaces provided. If you have filed more than three lawsuits, you must provide necessary information about each additional lawsuit on a separate page. Label the page(s) as “4A, 4B,” etc., at the bottom of the page and insert the additional page(s) immediately behind page 4.

Part C. CAUSE OF ACTION:

You must identify what rights the defendant(s) allegedly violated. The form provides space to allege three separate counts (one violation per count). If you are alleging more than three counts, you must provide the necessary information about each additional count on a separate page. Number the additional pages “7A, 7B,” etc., and insert them immediately behind page 7. Remember that you are limited to a total of fifteen additional pages.

1. Counts. You must identify which civil right was violated. **YOU MAY ALLEGE THE VIOLATION OF ONLY ONE CIVIL RIGHTS CLAIM PER COUNT.**

2. Issue Involved. Check the box that most closely identifies the issue involved in your claim. **YOU MAY CHECK ONLY ONE BOX PER COUNT.** If you check the box marked “Other,” you must identify the specific issue involved in the space provided.

3. Supporting Facts. After you have identified which civil right was violated, you need to state the supporting facts. Be as specific as possible. You must state what each individual defendant did to violate your rights. If there is more than one defendant, you need to identify which defendant did what act. You also need to state the date(s), or approximate date(s), on which the act(s) occurred if possible. Do not cite to case law or make legal arguments.

4. Injury. State precisely how you are injured by the alleged violation of your rights.

Part D. REQUEST FOR RELIEF:

Print the relief you are seeking in the space provided.

SIGNATURE: You must sign your name and print the date that you signed the complaint. Your signature must be an original signature, not a photocopy.

FINAL NOTE

Failure to follow these instructions may result in your complaint being dismissed. Answer all questions concisely in the proper space on the form. If needed, attach no more than fifteen additional pages, numbered as directed on the form. Completely fill in the form to the extent applicable. Be aware of and comply with these simple rules when completing your complaint form:

A complaint must contain a caption including the name of the court and the names of all parties. Fed. R. Civ. P. 10(a).

You may assert more than one claim against a single defendant in the same action. Fed. R. Civ. P. 18(a). Each claim against the defendant that is founded upon a separate transaction or occurrence must be set apart as a “separate count.” Fed. R. Civ. P. 10(b).

You may assert claims against *different* defendants in the same action *only if the claims arise from the same transactions or occurrences*. Fed. R. Civ. P. 20(a).

Your allegations must be short and plain, simple and direct and describe the relief you seek. Fed. R. Civ. P. 8(a).

You must sign the complaint. Fed. R. Civ. P. 11(a).

You are required to obey the court’s orders, comply with the local and federal rules, and meet all of your responsibilities in prosecuting this action, like all other litigants. *Ferdik v. Bonzelet*, 963 F.2d 1258 (9th Cir. 1992); *Pagtalunan v. Galaza*, 291 F.3d 639 (9th Cir. 2002). Failure to do so may result in dismissal of your action, including dismissal with prejudice. *Ferdik*, 963 F.2d 1258.

Name and Prisoner/Booking Number

Place of Confinement

Mailing Address

City, State, Zip Code

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII**

(Full Name of Plaintiff)

Case No. _____

(To be supplied by the Clerk)

vs.

PRISONER CIVIL RIGHTS COMPLAINT

- Original Complaint
- First Amended Complaint
- Second Amended Complaint

(Full Names of Defendants; DO NOT USE *et al.*)

A. JURISDICTION

1. Jurisdiction is invoked pursuant to:

- a. 28 U.S.C. § 1343(a)(3) ; 42 U.S.C. § 1983
- b. 28 U.S.C. § 1331; *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971)
- c. Other: (Please Specify) _____

2. Plaintiff: _____

Institution/city where violation occurred: _____

3. First Defendant *: _____

This defendant is a citizen of (state and county) _____,
and is employed as:

_____ at _____.

(Position and Title)

(Institution)

This defendant is sued in his/her ___ individual ___ official capacity (check one or both). Explain how

this defendant was acting under color of law:

4. Second Defendant: _____

This defendant is a citizen of (state and county) _____
_____, and is employed as:

_____ at _____
(Position and Title) (Institution)

This defendant is sued in his/her ___ individual ___ official capacity (check one or both). Explain how this defendant was acting under color of law:

5. Third Defendant: _____

This defendant is a citizen of (state and county) _____
_____, and is employed as:

_____ at _____
(Position and Title) (Institution)

This defendant is sued in his/her ___ individual ___ official capacity (check one or both). Explain how this defendant was acting under color of law:

(If you would like to name additional defendants, make a copy of this (blank) page and provide the necessary information.)

* A defendant may be named in an individual or official capacity, or both. To sue a defendant in their **individual capacity**, you must be able to state facts showing that the defendant was actually involved in violating your rights. A suit against a defendant in their **official capacity** is in reality a suit against the office or position the defendant holds. Only injunctive relief is available in an official capacity suit against a state official. This is because the **Eleventh Amendment** confers immunity upon the state or its officials against monetary damages resulting from federal court litigation.

“Color of law” refers to whether the person is a private party or an employee, official, or agent of a state, county, city, or the federal government. There can be no civil rights action under § 1983 unless the defendant was “acting under color of law.” After the color of law requirement is met, then it must be determined in which capacity the defendant is being sued.

B. PREVIOUS LAWSUITS

1. Have you brought any other lawsuits while a prisoner: Yes No

2. If your answer is yes, how many?: _____ Describe the lawsuit in the spaces below.

3. First previous lawsuit:
 - a. Plaintiff _____
Defendants _____

 - b. Court and Case Number (if federal court, identify the district; if state court, identify the county):

 - c. Claims raised: _____

 - d. Disposition (For example: Was the case dismissed? Was it appealed? Is it still pending?)

 - e. Approximate date of filing lawsuit _____

 - f. Approximate date of disposition _____

4. Second previous lawsuit:
 - a. Plaintiff _____
Defendants _____

 - b. Court and Case Number (if federal court, identify the district; if state court, identify the county):

 - c. Claims raised: _____

 - d. Disposition (For example: Was the case dismissed? Was it appealed? Is it still pending?)

 - e. Approximate date of filing lawsuit _____

 - f. Approximate date of disposition _____

5. Third previous lawsuit:

- a. Plaintiff _____
Defendants _____
- b. Court and Case Number (if federal court, identify the district; if state court, identify the county):

- c. Claims raised: _____
- d. Disposition (For example: Was the case dismissed? Was it appealed? Is it still pending?)

- e. Approximate date of filing lawsuit _____
- f. Approximate date of disposition _____

(If you have filed more than three lawsuits, make a copy of this (blank) page and provide the necessary information.)

- 6. Have you filed any actions in federal court that were dismissed because they were frivolous, malicious, or failed to state a claim upon which relief could be granted? ___ Yes ___ No.

If you have had three or more previous federal actions dismissed for any of the reasons stated above, you may not bring another civil action in forma pauperis unless you are under imminent danger of serious physical injury. See 28 U.S.C. § 1915(g).

COUNT III

1. The following constitutional or other federal civil right has been violated by the Defendant(s):

2. Count III involves: (Check **only one**; if your claim involves more than one issue, each issue should be stated in a different count)

- | | | |
|---|--|---|
| <input type="checkbox"/> Mail | <input type="checkbox"/> Access to the court | <input type="checkbox"/> Medical care |
| <input type="checkbox"/> Disciplinary proceedings | <input type="checkbox"/> Property | <input type="checkbox"/> Exercise of religion |
| <input type="checkbox"/> Retaliation | <input type="checkbox"/> Excessive force by an officer | <input type="checkbox"/> Threat to safety |
| <input type="checkbox"/> Other: _____ | | |

3. **Supporting Facts:** (State as briefly as possible the FACTS supporting Count III, without citing legal authority or arguments. Describe exactly what each Defendant did or did not do to violate your rights.)

4. Injury: (State how you have been injured by Defendant(s)' actions or inactions.)

(If you assert more than three Counts, make a copy of this (blank) page and provide the necessary information.)

D. REQUEST FOR RELIEF

State briefly exactly what you want the Court to do for you. Make no legal arguments. Cite no cases or statutes.

I understand that a false statement or answer to any question in this complaint will subject me to penalties of perjury. I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT. See 28 U.S.C. § 1746 and 18 U.S.C. §1621.

Signed this _____ day of _____, _____.
(month) (year)

(Signature of Plaintiff)

ADDITIONAL PAGES

All questions must be answered concisely in the proper space on the form. If needed, you may attach no more than **fifteen (15) additional pages**. Number these pages in relation to the final page number of the section that is being extended (i.e. additional defendants' pages should be numbered "2A, 2B, etc.," additional previous lawsuits' pages "4A, 4B, etc.," additional claims should be numbered "7A, 7B, etc." This form, however, must be completely filled in to the extent applicable.