

ACTIONS FILED BY PRISONERS

83.VIII.01: *Filing of Civil Rights Actions.* All complaints filed by state, federal, and local prisoners seeking relief under 42 U.S.C. § 1983, *et seq.*, or under the holding in *Bivens v. Six Unknown Members of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), shall be filed with the Clerk of Court in compliance with the instructions of the Office of the Clerk of Court on the appropriate form(s) or on forms substantially similar. Instructions and the appropriate forms may be obtained from the Office of the Clerk of Court without charge.

83.VIII.02: *Procedure for State, Federal, and Local Prisoners Seeking to Proceed In Forma Pauperis.* The Court shall maintain an operating procedure for prisoners seeking to proceed *in forma pauperis*. The operating procedure, which is set forth in the Orders filed in Misc. No. 4:96-MC38-2 (June 20, 1996) and in Misc. No. 3:96-MC225-12 (November 1, 1996) shall be fully effective as if reprinted in these Local Civil Rules.

83.VIII.03: *Filing of Habeas Corpus Actions.* All petitions filed by state, federal, and local prisoners seeking relief under 28 U.S.C. § 2254 or 28 U.S.C. § 2255 shall be filed with the Clerk of Court in compliance with the instructions of the Office of the Clerk of Court and on the appropriate forms or forms substantially similar. The instructions and the appropriate forms may be obtained from the Office of the Clerk of Court without charge.

83.VIII.04: *Successive Habeas Corpus Petitions.* The Anti-Terrorism and Effective Death Penalty Act of 1996 has placed limitations on successive petitions. In light of conflicting precedents in various federal jurisdictions and because most closed case records are at the Federal Records Center, a Magistrate Judge or District Judge may, in his or her discretion, authorize service of a petition under 28 U.S.C. § 2254 or 2255 where court records do not conclusively show that a petition is successive. In such circumstances, the respondents may raise successiveness as an affirmative defense.

83.VIII.05: *Federal Prisoners Seeking Relief under 28 U.S.C. § 2241.* All petitions filed by federal prisoners seeking relief under 28 U.S.C. § 2241 shall be filed with the Clerk of Court in compliance with the instructions and on the appropriate forms or on forms substantially similar. The instructions and the appropriate form(s) may be obtained from the Office of the Clerk of Court without charge.

83.VIII.06: *State and Local Prisoners Seeking Relief under 28 U.S.C. § 2241.* There is no standard form for state and local prisoners to use when seeking relief under 28 U.S.C. § 2241. Hence, state and local prisoners seeking relief under 28 U.S.C. § 2241 may prepare their own § 2241 petitions.

83.VIII.07: *Forms on Electronic Media.* The Office of the Clerk of Court is authorized to promulgate the civil rights forms or any habeas corpus forms on electronic media and is authorized to

distribute copies of the forms to correctional institutions, detention institutions, or litigants. Such forms on electronic media, if promulgated, shall be deemed to be “forms substantially similar” to the appropriate forms.