(HC)Green v. Lewis Doc. 9 Att. 1

INSTRUCTIONS FOR FILING A COMPLAINT BY A PRISONER UNDER CIVIL RIGHTS STATUTE 42 U.S.C. § 1983

I. Scope of Section 1983

An action under Section 1983 is available to challenge violations of the federal constitution or federal statutes which affect the conditions of your confinement or your treatment by government employees while in custody. Although you may ask for and obtain money damages or an injunction under Section 1983, the court cannot issue an order which could affect the length of your sentence in any way. Those types of claims may be raised only through a petition for writ of habeas corpus. If you want to file a petition for a writ of habeas corpus, you must do so on the correct forms, which are provided by the Clerk of the Court on request.

A. Exhaustion of Administrative Remedies

If there is an inmate appeal or administrative remedy process available at your institution, you may not file an action under Section 1983, or any other federal law, until you have first completed (exhausted) the process available at your institution. You are required to complete (exhaust) the inmate appeal or administrative remedy process before filing suit, regardless of the relief offered by the process. Booth v. Churner, 532 U.S. 731, 741 (2001); McKinney v. Carey, 311 F.3d 1198, 1199 (9th Cir. 2002). Even if you are seeking only money damages and the inmate appeal or administrative remedy process does not provide money, you must exhaust the process before filing suit. Booth, 532 U.S. at 734.

II. Packet

A copy of a complaint form is attached to this instruction sheet. In addition, included in the packet is an information sheet for prisoners seeking leave to proceed in forma pauperis (without prepayment of filing fees) and a copy of an application to proceed in forma pauperis. To file an action, you must send all the following items to the court:

- 1. An original and one copy of the complaint. You must keep an additional copy of the complaint for your own records. All copies of the complaint must be identical to the original. If you wish to have a conformed copy of your complaint returned to you, you must send, in addition to the original, two extra copies and provide the court with a self-addressed postage paid envelope
- 2. Either a completed in forma pauperis application or the \$350.00 filing fee.

NOTICE: Leave to proceed in forma pauperis allows a case to proceed without *pre-payment* of the filing fee. However, a prisoner who brings a civil action in forma pauperis shall nevertheless be required to pay the full amount of the filing fee. The court shall collect the filing fee through deductions from the prisoner's trust account. Dismissal of the case does not excuse payment of the full filing fee. See 28 U.S.C. § 1915.

III. Complaint Form

Your complaint must be legibly handwritten or typewritten. You must sign the complaint and declare under penalty of perjury that the facts stated in the complaint are correct. If you need additional space to answer a question, you should attach an additional blank page. You are required to state <u>facts</u> in support of each claim. The complaint should refer to the provision of the federal constitution or federal law on which you are relying, but should not contain legal arguments or citations.

IV. Venue

Your complaint should be filed in the Fresno Division of this court only if one or more of the named defendants is located in the Fresno Division of the Eastern District of California, or if your claim arose in the Fresno Division of this district. The Fresno Division of the Eastern District of California is comprised of the following counties: Fresno, Calaveras, Inyo, Kern, Kings, Madera, Mariposa, Merced, Stanislaus, Tulare, and Tuolumne.

Your complaint should be filed in the Sacramento Division of this court only if one or more of the named defendants is located in the Sacramento Division of the Eastern District of California, or if your claim arose in the Sacramento Division of this district. The Sacramento Division of the Eastern District of California is comprised of the following counties: Alpine, Amador, Butte, Colusa, El Dorado, Glenn, Lassen, Modoc, Mono, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Solano, Sutter, Tehama, Trinity, Yolo, and Yuba...

V. Mailing the Forms

When all of the forms described in part II are completed, if you are filing your case in the Fresno Division, mail the original and copies to:

Clerk of the U.S. District Court for the Eastern District of California 2500 Tulare Street, Suite 1501 Fresno, California 93721-2201

If you are filing your case in the Sacramento Division, mail the original and copies to:

Clerk of the U.S. District Court for the Eastern District of California 501 "I" Street, Suite 4-200 Sacramento, California 95814

VI. After the Complaint is Filed

Once the complaint is filed, the court will review it and decide whether to order service of the complaint on the defendants. You will be sent a copy of any order the court issues. Because of the large volume of cases filed by inmates pending in this court, the court WILL NOT ANSWER INQUIRIES concerning the status of your complaint.

You must keep the Clerk of the Court informed of any change of address. If you fail to do so, the Clerk cannot be responsible for your failure to receive Court orders. This could result in the dismissal of your suit.

The Clerk of the Court cannot provide copies of documents to litigants, except at a charge of fifty cents (\$0.50) per page. This charge also applies to litigants proceeding in forma pauperis. Therefore you must keep copies of all documents submitted to the court for your own records.

VII. Submission of Original Paper Exhibits

The Eastern District of California converted to an electronic filing, service, and storage system, effective January 3, 2005. Pro se litigants are exempt from the electronic filing requirement and must submit all documents to the court in paper. Local Rule 5-133(b)(2). Paper documents submitted by pro se litigants for filing will be scanned into the electronic court file by the Clerk's Office. After being scanned into the electronic court file, the paper documents will be retained in the Clerk's Office for a limited period of time and then discarded. Local Rule 39-138(d). For this reason, pro se litigants are cautioned not to send original exhibits to the court. If pro se litigants choose to submit exhibits to the court, the litigants shall retain their original exhibits and send photocopies to the court.

(Revised 8/30/06)

mate No	nme					
Address						
IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA						
(Nam	e of Plaintiff)	(Case Number)				
vs.		COMPLAINT				
		Civil Rights Act, 42 U.S.C. § 1983				
(Nar	mes of all Defendants)					
revious l	Lawsuits (list all other previous or	pending lawsuits on back of this form):				
A. Have you brought any other		suits while a prisoner? Yes No				
B.	If your answer to A is yes, how n	*				
Describe previous or pending (If more than one, use back of 1. Parties to this previous law		wsuits in the space below. sper to continue outlining all lawsuits.)				
		it:				
	2. Court (if Federal Court, give r	name of District; if State Court, give name of County)				
	3. Docket Number	4. Assigned Judge				
	5. Disposition (For example: Was	s the case dismissed? Was it appealed? Is it still pending?)				
	6. Filing date (approx.)	7. Disposition date (approx.)				

II.	Exhaustion of Administrative Remedies				
		A. Is there an inmate appeal or administrative remedy process available at your institution?			
		Yes No			
	B.	Have you filed an appeal or grievance concerning <u>ALL</u> of the facts contained in this complaint?			
		Yes No			
		If your answer is no, explain why not			
	C.	Is the process completed?			
		Yes If your answer is yes, briefly explain what happened at each level.			
		No If your answer is no, explain why not.			
NOTI	CE:	Pursuant to the Prison Litigation Reform Act of 1995, "[n]o action shall be brought with respect to prison conditions under [42 U.S.C. § 1983], or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." 42 U.S.C. § 1997e(a). If there is an inmate appeal or administrative remedy process available at your institution, you may not file an action under Section 1983, or any other federal law, until you have first completed (exhausted) the process available at your institution. You are required to complete (exhaust) the inmate appeal or administrative remedy process before filing suit, regardless of the relief offered by the process. Booth v. Churner, 532 U.S. 731, 741 (2001); McKinney v. Carey, 311 F.3d 1198, 1999 (9th Cir. 2002). Even if you are seeking only money damages and the inmate appeal or administrative remedy process does not provide money, you must exhaust the process before filing suit. Booth, 532 U.S. at 734.			
III. D	efendan	ats			
	second	m A below, place the full name of the defendant in the first blank, his/her official position in the d blank, and his/her place of employment in the third blank. Use item B for the names, positions and of employment of any additional defendants.)			
	A.	Defendant is employed as			
		at			

	B.	Additional defendants		
IV.	Staten	nent of Claim		
	includi	nere as briefly as possible the <u>facts</u> of your case. Describe how each defendant is involved, ng dates and places. Do not give any legal arguments or cite any cases or statutes. Attach extra if necessary.)		
-				
V. R	elief.			
		oriefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or		
	statutes	s.)		
I decl	are under	penalty of perjury that the foregoing is true and correct.		
Date_		Signature of Plaintiff		
(revise	d 6/01/04)			

Nam	e:
	C No:
Add	ress:
	UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA FRESNO DIVISION
	CASE NUMBER:
VS.	Plaintiff, APPLICATION TO PROCEED IN FORMA PAUPERIS BY A PRISONER
	Defendants/
that 1	I,, declare that I am the plaintiff in the above-entitled proceeding in support of my request to proceed without prepayment of fees under 28 U.S.C. section 1915, I declare am unable to pay the fees for these proceedings or give security therefor and that I am entitled to the sought in the complaint.
	In support of this application, I answer the following questions under penalty of perjury:
1.	Are you currently incarcerated? Yes No (If "no" DO NOT USE THIS FORM)
	State the place of your incarceration.
2.	Are you currently employed (includes prison employment)? Yes No
	a. If the answer is "yes" state the amount of your pay.
	b. If the answer is "no" state the date of your last employment, the amount of your take-home salary or wages and pay period, and the name and address of your last employer.

___ Yes

___ Yes ___ No

Have you received any money from the following sources over the last twelve months?

Business, profession, or other self-employment:

Rent payments, interest or dividends:

3.

a.

b.

	c.	Pensions, annuities or life insurance payments:	Yes	No
	d.	Disability or workers compensation payments:	Yes	No
	e	Gifts or inheritances:	Yes	No
	f.	Any other sources:	Yes	No
		answer to any of the above is "yes," describe by the eceived and what you expect you will continue to a		<u> </u>
4.	Do yo	ou have cash (includes balance of checking or savir	ngs accounts)?	Yes No
	If "ye	es" state the total amount:		
5.	-	ou own any real estate, stocks, bonds, securities, oth valuable property?	ner financial instr Y	
	If "ye	es" describe the property and state its value:		
6.	Do yo	ou have any other assets?Yes	No	
	If "ye	es," list the asset(s) and state the value of each asset	listed:	
7.		all persons dependent on you for support, stating yo much you contribute to their support.	ur relationship to	each person listed and
	<u>IMP</u>	ORTANT: This form must be dated and sign consider your application.	gned below in or	der for the court to
to the		eby authorize the agency having custody of me to coof the United States District Court payments in acco	•	
		DATE SIG	NATURE OF A	PPLICANT
	<u>NOT</u>	E: Within sixty days from the date of this ap certified copy of your prison trust accoun past six months.		

(Revised 01/2008)