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WRITS OF HABEAS CORPUS AND MOTIONS PURSUANT TO 28 U.S.C. § 2255

(a) **Filing Requirements.** ~~A P~~petitions for writs of habeas corpus pursuant to 28 U.S.C. § 2254 ~~and-or~~ 28 U.S.C. § 2241, ~~or a~~ motions to vacate sentence pursuant to 28 U.S.C. § 2255, and any accompanying applications to proceed *in forma pauperis* must be signed and legibly written or typewritten on forms approved by the Court and in accordance with the instructions provided with the forms, unless the ~~judge-Court to whom the case is assigned~~ finds that the petition or motion is understandable and that it conforms with federal and local requirements for such actions. Copies of the forms and instructions will be provided by the Clerk upon request. If not filed electronically, ~~T~~he original and two (2) copies of the petition or motion must be sent or delivered to the Clerk. The ~~judge-Court~~ may strike or dismiss petitions, motions or applications which do not conform substantively or procedurally with federal and local requirements for such actions.

(b) Page Limitation in Capital Cases. If the petitioner is under a sentence of death, a petition for writ of habeas corpus under 28 U.S.C. § 2254, motion to vacate, set aside, or correct sentence under 28 U.S.C. § 2255, or any response thereto may not exceed 200 pages, exclusive of attachments. A reply in support of a petition or motion may not exceed 100 pages, exclusive of attachments. The Court may grant leave to exceed the page limitation set forth in this paragraph if the party demonstrates good cause for doing so. A motion to exceed the page limitation must be filed on or before the filing deadline and the proposed filing must be lodged as an attachment to the motion. If the Court grants leave for the petition to exceed the page limitation, the length of the response to the petition will be increased by the same amount. If the Court denies leave to exceed the page limitation, the filer must submit a revised filing that complies with the page limitation within 14 days, unless otherwise ordered by the Court.

(bc) In Forma Pauperis Certification. If a habeas corpus petitioner desires to prosecute the petition *in forma pauperis*, the petitioner must file an application to proceed *in forma pauperis* ~~on a form approved by the Court~~, accompanied by a certification of the warden or other appropriate officer of the institution in which the petitioner is confined as

to the amount of money or securities on deposit to the petitioner's credit. If the petitioner has ~~in excess of~~more than twenty-five dollars (\$25) on deposit, leave to proceed *in forma pauperis* will be denied and the petitioner must pay the filing fee.

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REMOVAL TO FEDERAL COURT

(a) Procedure. A defendant or defendants desiring to remove any civil action or criminal prosecution from a state court shall file a Notice of Removal, signed pursuant to Rule 11 of the Federal Rules of Civil Procedure. ~~The removing party must include the most recent version of the docket from the State Court, if available.~~ The notice must contain an affirmative statement that a copy of the notice has been filed with the clerk of the state court from which the action or prosecution has been removed. In addition to submitting the civil cover sheet (AO Form JS-44), the removing party must also submit a “Supplemental Civil Cover Sheet for Cases Removed from Another Jurisdiction.”

(b) State Court Record. The removing party must file copies of all pleadings and other documents that were previously filed with the state court, ~~accompanied by a~~ The removing party must file and identify the following separate attachments to the Notice of Removal: (1) Supplemental Civil Cover Sheet; (2) most recent state court docket; (3) operative complaint; (4) service documents; (5) answers; (6) state court orders terminating or dismissing parties; (7) notices of appearance; (8) pending motions, responses, and replies; (9) remainder of state court record; and (10) verification from of the removing party or its counsel that they are true and complete copies of all pleadings and other documents filed in the state court proceeding have been filed. ~~Unless the removing party files a motion requesting an extension of time for good cause, the state court record must be filed when the notice of removal is filed.~~

(c) Timing. The removing party must file the state court record when the notice of removal is filed unless the removing party files a motion for extension of time for good cause.

(ed) Pending Motions. If a motion is pending and undecided in the state court at the time of removal, the Court need not consider the motion unless and until a party files and serves a notice of pending motion. The notice must: (1) identify the motion by the title that appears in its caption; (2) identify any responsive or reply memoranda filed in connection with the motion, along with any related papers, such as separately filed affidavits or statements of fact; and (3) state whether briefing on

the motion is complete, and, if not, it must identify the memoranda or other papers yet to be filed. The Clerk's Office will refile the pending motion and any responsive and reply memoranda, along with any related papers, as of the date the notice is filed in this Court.

(de) Jury Trial Demand. In a case removed from state court, a party must comply with Federal Rule of Civil Procedure 81(c) to preserve any right to a trial by jury.

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ORDERS AND JUDGMENTS GRANTABLE OF COURSE BY THE CLERK

(a) **Authority.** The Clerk or any deputy authorized by the Court under standing order is authorized to sign and enter any order permitted to be signed by a Clerk under the Federal Rules of Civil Procedure, and particularly the following orders, without further direction by the Court:

(1) Orders specially appointing persons to serve process under the Federal Rules of Civil Procedure.

(2) Orders on stipulation of all counsel, approved in writing by the client being represented, for the substitution of attorneys.

(3) Orders ~~withdrawing regarding~~ exhibits and the administrative record under Rule 79.1, Local Rules of Civil Procedure.

(4) Orders in stipulation noting satisfaction of an order for the payment of money, or withdrawing stipulations, or annulling bonds, or exonerating sureties, or setting aside a default.

(5) Entering judgments or verdicts or decisions of the Court in circumstances authorized in Rule 58, Federal Rules of Civil Procedure; entering judgments by default in the circumstances authorized in Rule 55(b)(1), Federal Rules of Civil Procedure; and entering judgments pursuant to offers of judgment and acceptances thereof in the circumstances authorized in Rule 68, Federal Rules of Civil Procedure.

(6) Any other order which, under Rule 77(c) of the Federal Rules of Civil Procedure, does not require special direction by the Court.

(7) Orders authorizing the filing, without payment of fees, of prisoner civil complaints and habeas corpus petitions providing the affidavit *in forma pauperis* of the complainant or petitioner conforms to the requirements of Local Rules of Civil Procedure Rules 3.4(a) or 3.5(b) as appropriate.

(b) **Suspension, Altered, or Rescinded by the Court.** Any order so entered may be suspended, altered, or rescinded by the Court for cause shown, upon such terms and within such time limits as may be established by any applicable rule or procedure.

(c) **Attachment and Garnishment.** The Clerk may issue a writ of attachment and garnishment in the circumstances and in the manner provided by the laws of the State of Arizona.

F.R.Civ.P. 79. Records Kept by the Clerk

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CUSTODY AND DISPOSITION OF NON-ELECTRONICALLY SUBMITTED EXHIBITS, ADMINISTRATIVE RECORDS, AND SEALED DOCUMENTS

(a) ~~Retained~~ Retention by Party or Attorney. All non-electronically submitted exhibits offered by any party in civil or criminal proceedings, whether or not received as evidence, shall be retained after trial by the party or attorney offering the exhibits until time for appeal expires or the mandate on appeal issues, unless otherwise ordered by the Court. All non-electronically submitted administrative records offered by any party, whether or not received into evidence, in Social Security cases and other cases reviewed under the Administrative Procedure Act will be returned to ~~counsel the party or attorney when the time for appeal expires or the mandate on appeal issues~~ at the conclusion of the action, including any appeal, unless otherwise ordered by the Court.

(b) ~~Transmitted~~ Transmission on Appeal. If requested by the Court of Appeals, each party or attorney is responsible for transmitting non-electronic exhibits to the appellate court as part of the record on appeal. ~~In the event an appeal is prosecuted by any party, each party to the appeal shall promptly file with the Clerk any non-electronically submitted exhibits to be transmitted to the appellate court as part of the record on appeal. Those exhibits not transmitted as part of the record on appeal shall be retained by the parties who shall make them available for use by the appellate court upon request.~~

(c) **Notice to Remove Non-electronically Submitted Exhibits and Administrative Records.** Upon thirty (30) days' notice. ~~If any party, having received notice from the Clerk concerning the removal of non-electronically submitted exhibits or administrative records, fails to do so within thirty (30) days from the date of such notice,~~ the Clerk may destroy or otherwise dispose of ~~those~~ any non-electronically submitted exhibits or administrative records when the time for appeal expires or the mandate on appeal issues, unless otherwise ordered by the Court.

(d) **Sealed Documents – Search Warrants, Orders on Pen Registers, Orders on Trap and Trace Devices, and Mobile Tracking Device Warrants.** Unless otherwise

ordered by the Court, any search warrant, order on pen register, order on trap and trace device, or mobile tracking device warrant ordered sealed by a magistrate judge in a criminal matter on or after December 1, 2014, will be unsealed 180 days after the file date of the search warrant or the expiration date of the pen/trap order or tracking warrant. At least 60 days before the expiration of the sealing order, the Clerk of Court must notify the Criminal Chief at the Office of the United States Attorney, or designee, of the date when the documents will be unsealed. Before the expiration of the sealing order, the government may move the court to extend the sealing order. A motion to extend a sealing order may be filed ex parte. Documents that have been unsealed may be destroyed when eligible under the Records Disposition Schedule in the *Guide to Judiciary Policy*.