

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT

for the District of New Hampshire



2018 AUG -9 A 11:09

Nancy Heath Guardian Pro se for Anthony K Heath

Petitioner

v.

Helen Hanks Commissioner Department of Corrections, Paula Mattis Director Secure Psychiatric Unit, Deborah Robinson Administrator Secure Psychiatric Unit

Respondent

(name of warden or authorized person having custody of petitioner)

Case No. (Supplied by Clerk of Court)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

- 1. (a) Your full name: Anthony K Heath
(b) Other names you have used:
2. Place of confinement:
(a) Name of institution: N. H. State Prison for Men (Concord)
(b) Address: 281 North State Street, Concord, NH 03302
(c) Your identification number: 111182
3. Are you currently being held on orders by:
Federal authorities State authorities Other - explain:
4. Are you currently:
A pretrial detainee (waiting for trial on criminal charges)
Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
If you are currently serving a sentence, provide:
(a) Name and location of court that sentenced you:
(b) Docket number of criminal case:
(c) Date of sentencing:
Being held on an immigration charge
Other (explain): Civilly committed, 6th Circuit Probate Division, 36 Clinton St. Concord, NH

Decision or Action You Are Challenging

- 5. What are you challenging in this petition:
How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

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- Pretrial detention
- Immigration detention
- Detainer
- The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
- Disciplinary proceedings
- Other (explain): The Petitioner is a mentally ill man civilly committed but incarcerated at the SPU of the NH Prison for Men.

6. Provide more information about the decision or action you are challenging:
- (a) Name and location of the agency or court: The State of New Hampshire is incarcerating the Petitioner in a maximum security prison even though he has no criminal process pending.
- (b) Docket number, case number, or opinion number: \_\_\_\_\_
- (c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed): \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- (d) Date of the decision or action: \_\_\_\_\_

**Your Earlier Challenges of the Decision or Action**

7. **First appeal**
- Did you appeal the decision, file a grievance, or seek an administrative remedy?
- Yes  No
- (a) If "Yes," provide:
- (1) Name of the authority, agency, or court: \_\_\_\_\_
  - (2) Date of filing: \_\_\_\_\_
  - (3) Docket number, case number, or opinion number: \_\_\_\_\_
  - (4) Result: \_\_\_\_\_
  - (5) Date of result: \_\_\_\_\_
  - (6) Issues raised: \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- (b) If you answered "No," explain why you did not appeal: \_\_\_\_\_
- \_\_\_\_\_

8. **Second appeal**
- After the first appeal, did you file a second appeal to a higher authority, agency, or court?
- Yes  No

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(a) If "Yes," provide:

(1) Name of the authority, agency, or court: \_\_\_\_\_

(2) Date of filing: \_\_\_\_\_

(3) Docket number, case number, or opinion number: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

(b) If you answered "No," explain why you did not file a second appeal: \_\_\_\_\_

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

Yes  No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: \_\_\_\_\_

(2) Date of filing: \_\_\_\_\_

(3) Docket number, case number, or opinion number: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

(b) If you answered "No," explain why you did not file a third appeal: \_\_\_\_\_

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

Yes  No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

Yes  No

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If "Yes," provide:

- (1) Name of court: \_\_\_\_\_
- (2) Case number: \_\_\_\_\_
- (3) Date of filing: \_\_\_\_\_
- (4) Result: \_\_\_\_\_
- (5) Date of result: \_\_\_\_\_
- (6) Issues raised: \_\_\_\_\_

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

Yes  No

If "Yes," provide:

- (1) Name of court: \_\_\_\_\_
- (2) Case number: \_\_\_\_\_
- (3) Date of filing: \_\_\_\_\_
- (4) Result: \_\_\_\_\_
- (5) Date of result: \_\_\_\_\_
- (6) Issues raised: \_\_\_\_\_

(c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

Yes  No

If "Yes," provide:

- (a) Date you were taken into immigration custody: \_\_\_\_\_
- (b) Date of the removal or reinstatement order: \_\_\_\_\_
- (c) Did you file an appeal with the Board of Immigration Appeals?

Yes  No

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If "Yes," provide:

- (1) Date of filing: \_\_\_\_\_
- (2) Case number: \_\_\_\_\_
- (3) Result: \_\_\_\_\_
- (4) Date of result: \_\_\_\_\_
- (5) Issues raised: \_\_\_\_\_

(d) Did you appeal the decision to the United States Court of Appeals?

- Yes  No

If "Yes," provide:

- (1) Name of court: \_\_\_\_\_
- (2) Date of filing: \_\_\_\_\_
- (3) Case number: \_\_\_\_\_
- (4) Result: \_\_\_\_\_
- (5) Date of result: \_\_\_\_\_
- (6) Issues raised: \_\_\_\_\_

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

- Yes  No

If "Yes," provide:

- (a) Kind of petition, motion, or application: \_\_\_\_\_
- (b) Name of the authority, agency, or court: \_\_\_\_\_
- (c) Date of filing: \_\_\_\_\_
- (d) Docket number, case number, or opinion number: \_\_\_\_\_
- (e) Result: \_\_\_\_\_
- (f) Date of result: \_\_\_\_\_
- (g) Issues raised: \_\_\_\_\_

**Grounds for Your Challenge in This Petition**

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

**GROUND ONE:** Incarceration of a mentally ill man is cruel and unusual punishment in violation of the eighth amendment and is a human rights violation. The Petitioner has been subjected to solitary confinement for over 8 months, has been tasered and put into 4 point restraints for a routine blood draw. He has been provided only cold water for showers in the winter. His requests for hygiene and grooming have been ignored.

(a) Supporting facts *(Be brief. Do not cite cases or law.):*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(b) Did you present Ground One in all appeals that were available to you?

Yes  No

**GROUND TWO:** Anthony is incarcerated in violation of due process protections provided in the Fourteenth Amendment.

(a) Supporting facts *(Be brief. Do not cite cases or law.):*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(b) Did you present Ground Two in all appeals that were available to you?

Yes  No

**GROUND THREE:** Anthony was transferred from New Hampshire Hospital where his civil committment was ordered by the Probate court, in violation of EMTALA, to the Secure Psychiatric Unit of the New Hampshire State Prison for Men, Concord.

(a) Supporting facts *(Be brief. Do not cite cases or law.):*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(b) Did you present Ground Three in all appeals that were available to you?

Yes  No

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**GROUND FOUR:**

**(a) Supporting facts** *(Be brief. Do not cite cases or law.):*

**(b) Did you present Ground Four in all appeals that were available to you?**

Yes

No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

**Request for Relief**

15. State exactly what you want the court to do: **To release the Petitioner from custody or transfer him to a licensed and accredited psychiatric hospital including any in New Hampshire, Maine, Vermont, or Massachusetts that may accept him.**

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**Declaration Under Penalty Of Perjury**

If you are incarcerated, on what date did you place this petition in the prison mail system:

---

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date:

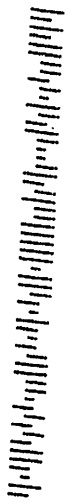
8/7/18

  
Signature of Petitioner

\_\_\_\_\_  
*Signature of Attorney or other authorized person, if any*



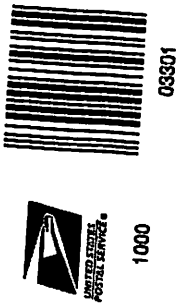
N. Heath  
534 E. Side River Rd.  
Milano, N.H. 03588



PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE  
**CERTIFIED MAIL**<sup>TM</sup>



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United States District Court  
District of New Hampshire  
55 Pleasant Street Rf  
Concord N.H. 03301

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Anthony K Heath

(b) County of Residence of First Listed Plaintiff Merrimack (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

New Hampshire State Prison for Men et al

County of Residence of First Listed Defendant Merrimack (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories and codes.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 USC 2241

Brief description of cause: Mental Health Civilly committed patient falsely incarcerated

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE