

Pro Se Litigants FAQs

What is the purpose of the Court's initial review of my case?

Congress has authorized the Court to dismiss cases that fall into the following categories. This dismissal occurs before the defendants are served, saving defendants from having to needlessly respond to cases that, for one of the following reasons, have no chance at success:

- lack of subject matter jurisdiction
- failure to state a claim upon which relief can be granted
- a finding that the allegation of poverty is untrue
- the case is frivolous or malicious
- the complaint seeks monetary relief against a defendant who is immune from such relief.

If you are a non-prisoner, the Court's review of your case may simply be an order granting or denying your in forma pauperis request.

How long will it take the Court to review my case?

Cases are reviewed in the order in which they are received, usually between one and six months after filing.

What can I do in my case while I wait for the Court to review my case?

You should not attempt to obtain a summons, serve the defendants, seek default judgment, proceed with discovery, or take other such actions unless the Court authorizes you to proceed with your case. You may do informal tasks, such as attempting to resolve your claim with the other party by letter, interviewing witnesses, compiling your evidence, and finding the service addresses of the defendants.

What will the Court order in its Initial Review Order?

An initial review order may authorize you to proceed, may order that you file an amended complaint or petition, or may dismiss some or all of your claims. If you are authorized to proceed and you are granted in forma pauperis status, then the Clerk of Court will serve a notice of waiver of service of summons to the defendants on your behalf or will direct the U.S. Marshal to serve the defendants, as may be appropriate.

If the Initial Review Order authorizes me to proceed with my case, can it still be dismissed at a later date?

Yes. The Initial Review Order is simply an early evaluation of whether you have stated claims that may be valid if you have admissible evidence to prove your claims and if you follow the correct procedures for bringing your claims. Your claims may be dismissed before trial of a complaint or before final resolution of a habeas corpus petition for any of the following reasons: (1) you are ordered to file an amended complaint or petition and you fail to do so; (2) you are ordered to pay the filing fee and you fail to do so; (3) you are ordered to serve the defendants within a certain time frame and fail to do so; or (4) the defendants file and prevail upon a motion to dismiss or motion for summary judgment.

¹ See 28 U.S.C. § 1915(e)(2) (applicable to prisoner and nonprisoner pro se litigants who request in forma pauperis status in civil cases); 28 U.S.C. § 1915A (applicable to all prisoner pro se litigants in civil cases); and 28 U.S.C. § 2243 and Rule 4 of the Rules Governing § 2254 Cases (applicable to habeas corpus cases).