

10/15/2020

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANAClerk, U.S. District Court
District of Montana
Missoula Division

IN RE:

PRISON ELECTRONIC
FILING PROJECT

STANDING ORDER No. BMM-6

This Order modifies and supersedes Standing Order No. DLC-46 for the United States District Court for the District of Montana, entered August 27, 2019.

The United States District Court for the District of Montana (“the Court”) and the Montana Department of Corrections (“MDOC”) have agreed to participate in an electronic filing project (“E-Filing Project”). The E-Filing Project is designed to increase efficiencies in pro se prisoner filings and save costs to prisoner litigants, the MDOC, and the Court by reducing expenses for paper, envelopes, copying, and postage. Furthermore, it will substantially reduce the amount of staff time spent processing prisoner filings for both the MDOC and the Court. This Standing Order sets forth the rules for managing the E-Filing Project.

IT IS HEREBY ORDERED:

1. The E-Filing Project includes all actions filed in federal court by prisoners incarcerated at Montana State Prison (“MSP”) including but not limited to all prisoner civil rights and habeas corpus cases brought under 42 U.S.C. § 1983, 28 U.S.C. §§ 2241, 2254, or 2255.

2. Participation in the E-Filing Project is **mandatory** for all prisoners in all

custody levels at MSP.

3. All filings submitted by prisoner litigants to the Court (correspondence, pleadings, motions, and briefs) (hereinafter “court filings”) **must be** electronically submitted to the District of Montana. If a prisoner litigant is later transferred to another facility, he must resume submitting all court filings by mail. The Court will not accept filings via U.S. Mail from prisoners at MSP and any documents received will be returned without filing.

4. Correspondence and requests for discovery between a prisoner litigant and any defendant or respondent **shall not** be electronically submitted and must continue to be exchanged by mail.

5. Electronic court filings will be processed as follows:

a. Prisoner Litigant Submission of Court Filing: The prisoner litigant will provide MSP staff with the original court filing and a filing request form. The court filing must comply with the requirements set forth in the Prisoner Filing Checklist, a copy of which shall be posted or distributed with this Order consistent with MSP practices. MSP staff will scan the court filing into a digital sender which converts the filing to PDF format and e-mails the document to a designated Court e-mail address. Prisoner litigants do not have the right to be present during scanning and e-mailing of documents.

b. Docketing: Court staff will monitor the designated Court e-mail inbox, conduct a readability review, and either file the document in the Case

Management Electronic Case Filing system (CM/ECF) or notify MSP staff that the scan has been rejected.

c. Notice of Electronic Filing (“NEF”): When a court filing is docketed, a Notice of Electronic Filing (“NEF”) is issued. The NEF confirms the date of docketing and contains an electronic link to the court filing. The MDOC will establish an e-mail address by which MSP staff will receive the NEF when a document has been filed electronically. When MSP staff receives an NEF for a document filed by a prisoner, MSP staff will return the original documents to the prisoner with the NEF which will indicate that the document has been electronically filed, when it was filed, and the number of pages filed with the Court. The prisoner litigant is expected to keep the original court filing and produce it at a later time, if ordered to do so by the Court.

d. Prisoner Receipt of Documents: When the prisoner litigant receives the NEF, he shall verify that the correct number of pages were filed. If there is a problem with the scanned document, the prisoner litigant shall re-submit the original to MSP staff, who will contact the Court to report the discrepancy. If it is determined that a portion of a pleading is missing or illegible, the prisoner litigant will be directed to either mail the original document to the Court or re-submit the document to MSP staff for electronic submission. Once the document is filed in the Court’s system, the document is automatically served upon opposing counsel (if counsel has entered an appearance) so there will be no need for the

prisoner litigant to mail copies to other parties. If there are other parties to the case that are not registered CM/ECF users, the Clerk of Court will mail a copy of the prisoner litigant's electronically filed document to each non-registered party on behalf of the prisoner litigant, via the United States Postal Service. The NEF generated by the Court's electronic case filing system will constitute official service upon the other parties.

e. Court Orders: When the Court enters an order (or other communication) directed to the parties, the filing will be e-mailed to MSP. MSP staff will print and provide the prisoner litigant with copies of the NEF and the Court-issued order (or other communication). Receipt by the prisoner litigant of the NEF with the Court order (or other communication) constitutes service on the prisoner litigant.

f. Defendants: Even though prison staff will submit prisoners' documents electronically, the prisoners will not be registered CM/ECF participants. Therefore, the rules for regular and electronic service of pleadings and papers shall apply, as set forth in Rule 5(b) of the Federal Rules of Civil Procedure. Defendants and any non-prisoner party must mail to the prisoner, via the United States Postal Service, a copy of any document filed on their behalf.

6. The Court has provided a digital sender for use at Montana State Prison. The equipment will at all times remain property of the United States District Court for the District of Montana and it will bear a property tag reflecting the

ownership. The MDOC has executed an appropriate property receipt provided by the District Court. The MDOC will provide a printer and paper necessary to fulfill the requirements of this Order.

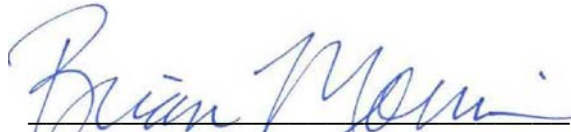
7. The Clerk of Court is authorized to develop, implement, publish, and modify as necessary administrative procedures to modify the E-Filing Project.

8. MSP shall designate and maintain with the Court current contact information for the MSP staff member(s) who will fulfill MSP's document procuring duties set forth in this Order.

9. The Clerk of Court shall notify the following individuals of the entry of this Order: Reginald Michael, Director Montana Department of Corrections; Jim Salmonsens, Warden Montana State Prison; Colleen Ambrose, Chief Legal Counsel for the Montana Department of Corrections; Gayle Butler, Montana Correctional Enterprises Administrator, and Marisa Britton-Bostwick, Education Director for Montana State Prison.

This Standing Order shall remain in effect until such time as the Court or MDOC determines that the E-Filing Project should be discontinued.

DATED this 15th day of October, 2020.


Brian Morris, Chief Judge
United States District Court