

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
OFFICE OF THE CLERK

ANN THOMPSON
CLERK OF COURT

REPLY TO:
400 East 9th Street
KANSAS CITY, MO. 64106

Re: Appeal for Civil Cases

Enclosed please find the judgment of the court in the above-styled matter.

In the event that you wish to file an appeal from this judgment, pursuant to the Prison Litigation Reform Act of 1996, you must do one of the following:

(1) immediately pay the full 455.00 filing and docketing fees for the appeal to the district court clerk, or

(2) obtain permission from the district court to file the appeal in forma pauperis, make an initial partial payment of the filing and docketing fees, and then pay the remainder of the fees on an installment basis, or

(3) obtain permission from the district court to file the appeal in forma pauperis as a destitute person by proving that you have no assets.

These provisions apply even if you were allowed to file the complaint in this case in forma pauperis. In forma pauperis status does not carry over to the appeal. Before an appeal can be processed, you must select and follow through on one of the three steps listed above.

If you elect to pay the full fee, please submit a money order, check, or cash in the amount of \$455 with your notice of appeal to the district court. Checks and money orders should be made payable to: "Clerk of the United States District Court". Your case number must be included.

If you choose to proceed in forma pauperis and want permission to pay the fee with an initial partial payment and subsequent monthly installment payments, or if you wish to seek a waiver of the obligation to make an initial partial payment on the ground that you are destitute, you must do all of the following at the time you file your notice of appeal:

1. submit a motion for leave to appeal in forma pauperis, and
2. complete and submit the enclosed financial affidavit, and
3. provide a certified statement from the prison showing the amount in your prison trust fund account for the last 6 months, and

4. complete the enclosed authorization form permitting the deductions from your prison account.

Once the district court clerk's office receives all of the above materials and your notice of appeal, the matter will be submitted to the district court for a decision as to whether you should be allowed to appeal in forma pauperis, and, if necessary, whether you are destitute.

In the event that you are granted leave to appeal in forma pauperis, you will be liable for the entire \$455.00 filing and docketing fees for the appeal. If you are not destitute, you will be required to pay the appeal fees through an initial partial payment and a series of monthly installment payments. The initial partial payment will be in an amount which is 20% of the greater of:

- (a) the average of the monthly deposits into your trust account during the last six months, or
- (b) the average of the monthly balance of your trust account during the past six months.

If you decide to proceed with an appeal and if you are granted leave to proceed in forma pauperis, the court will send you an order assessing your initial partial payment. You will then be liable for payment of the balance of the \$455 filing and docketing fees in monthly installments; for example, if the court assesses an initial partial payment of \$455, you will have to pay the remaining \$455 in monthly installments, regardless of the outcome of your appeal. Each monthly installment will be equal to 20% of your monthly income. By signing the attached "Authorization to Debit Trust Account to Pay Federal Court Filing Fees," you agree to make these monthly payments until the entire \$455 has been paid.

The obligation to make an initial partial payment of the \$455 appeal filing and docketing fees can be waived only if the court enters an order finding that you are destitute. If you are granted leave to proceed in forma pauperis and are found to be destitute, you will still be liable for the entire \$455 fee. Your case will be allowed to proceed, however, without any initial payment. When funds become available in your account, you will then be liable to pay the full \$455 fee on an installment plan.

These new procedures are a significant change in the law; under the previous provisions of 28 U.S.C. § 1915, a finding that you were entitled to proceed in forma pauperis meant that no fee would be assessed. Under the new provisions of the Prison Litigation Reform Act, a finding that you should be permitted to proceed in forma pauperis means that you must pay the entire fee, either through the partial initial payment and a series of installment payments or through payments at a later date if you are currently destitute.

If you choose to file an appeal, please comply with these directions. **Your appeal cannot be processed and sent to the court of appeals unless you either pay the full fee or obtain leave to appeal in forma pauperis.**

You must comply with the procedures and filing deadlines set forth in Fed. R. App. P.

4, or your appeal may be dismissed as untimely.

If you have any questions, please contact our office.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI

_____))
Plaintiff, Petitioner or Movant))
))
v.) Case No. _____)
))
_____))
Defendant(s) or Respondent(s)))

**AFFIDAVIT IN SUPPORT OF REQUEST TO
PROCEED *IN FORMA PAUPERIS* -- PRISONER CASES**

I, _____ declare (1) that I am the _____ in this case; (2) that in support of my motion to proceed without being required to **prepay** fees or costs, I state that because of my poverty, I am unable to pay the costs of this proceeding; and (3) that I believe I am entitled to relief. (Note: Prisoners must pay the full filing fee of \$455 in civil rights cases in accordance with 28 U.S.C. § 1915.) See instructions provided with this packet.

1. Place of confinement of plaintiff:

2. Crime(s) for which you have been convicted, date and sentence on each:

3. Are you presently employed? Yes No
 - a. If the answer is “yes,” state the amount of your salary or wages per month, and give the name and address of your employer.

 - b. If the answer is “no”, state the date of last employment and the amount of the salary and wages per month which you received.

4. Have you received, within the past twelve (12) months, money from any of the following sources?

Yes No

Business, profession or form of self-employment?

Rent payments, interest or dividends?

Pensions, annuities or life insurance payments?

Gifts or inheritances?

Any other sources?

If the answer to any of the above is "yes," describe the source and amount of money received from each during the past twelve (12) months.

5. Do you own any cash, or do you have money in a checking or savings account? (Include any funds in prison accounts during the last six (6) months.) Yes No

If the answer is "yes," state the total amount of cash owned, and the average monthly balance in all checking, savings or prison accounts during the last six (6) months.

6. Do you own real estate, stocks, bonds, notes, automobiles, jewelry or other valuable property (excluding ordinary household furnishings and clothing)? Yes No

If the answer is "yes," describe the property and state its approximate value.

7. List the persons who are dependent upon you for support, state your relationship to those persons, and indicate how much you contribute toward their support.

I DECLARE UNDER PENALTY OF PERJURY THAT THE ABOVE INFORMATION IS TRUE AND CORRECT. I UNDERSTAND THAT PROVIDING FALSE INFORMATION MAY RESULT IN DISMISSAL OF THE CASE, SUBJECT ME TO CRIMINAL PROSECUTION, IMPOSITION OF A FINE, OR OTHER SANCTION THAT MAY ADVERSELY AFFECT MY ABILITY TO PURSUE THIS CASE OR OTHER CASES. I HAVE REVIEWED MY ANSWERS TO INSURE THEIR ACCURACY.

Executed (signed) this _____ day of _____, 20__.

(Signature of Plaintiff, Petitioner or Movant)

Authorization for Release of Institutional Account Information and
Payment of the Filing Fee

I, _____
(Name of Plaintiff, Petitioner or Movant) (Register Number)

authorize the Clerk of Court to obtain, from the agency having custody of my person, information about my institutional account, including balances, deposits and withdrawals, to determine my eligibility to proceed *in forma pauperis*. 28 U.S.C. § 1915. The Clerk of Court may obtain my account information from the past six months and in the future until the filing fee is paid. I also authorize the agency having custody of my person to withdraw funds from my account and forward payments to the Clerk of the Court, in accord with 28 U.S.C. § 1915.

(Signature of Plaintiff, Petitioner or Movant)

(Date)

**AUTHORIZATION TO DEBIT TRUST FUND ACCOUNT TO PAY FEDERAL COURT
FILING FEES
(APPEAL)**

I, _____, request and authorize the agency holding me in custody to disburse to the clerk of the court of the United States District Court for the Western District of Missouri funds from my inmate trust fund account (or institutional equivalent) to pay the initial partial filing fee for an appeal from that court in my Case No:
_____.

I understand that the total filing fee for this appeal is \$455.00. I also understand that the balance of this fee will be deducted from my account in monthly installments until the entire \$455.00 filing fee is paid. The monthly installments shall be equal to 20% of the funds deposited in my account during the preceding calendar month. I agree that I am responsible for the entire fee regardless of the outcome of the case.

I agree that this authorization shall apply to any other agency into whose custody I may be transferred.

(name and register number)

Dated this _____ day of _____, 20____.