

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

PATRICIA L. BRUNE
CLERK OF COURT

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

Re:

Dear:

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, you should be aware that Congress recently amended the law governing prisoner litigation by enacting the Prison Litigation Reform Act of 1996. The provisions of the Prison Litigation Reform Act substantially modify 28 U.S.C. § 1915, the provision of the federal judicial code covering in forma pauperis. Under the new provisions, a prisoner seeking to appeal a judgment of the district court must do one of the following:

(1) immediately pay the full \$105.00 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 fee 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 he has 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 \$105 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".

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 \$105.00 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 \$105 filing and docketing fees in monthly installments; for example, if the court assesses an initial partial payment of \$25, you will have to pay the remaining \$80 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 \$105 has been paid.

The obligation to make an initial partial payment of the \$105 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 \$105 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 \$105 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))
))
v.)) Case No. _____
))
_____))
Defendant(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 \$150.00 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 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)

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

I, _____
(Name of Plaintiff) (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. 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 Court, in accord with 28 U.S.C. § 1915.

(Signature of Plaintiff)

(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, entitled No. _____.

I understand that the total filing fee for this appeal is \$105.00. I also understand that the balance of this fee will be deducted from my account in monthly installments until the entire \$105.00 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____.

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
_____ DIVISION**

_____,
Plaintiff,

vs.

Case No. _____

_____,
Defendant.

NOTICE OF APPEAL

Notice is hereby given that _____, plaintiff in the above named case, hereby appeals to the United States Court of Appeals for the Eighth Circuit from the final judgment entered in this action on the ____ day of _____, 20____.

Plaintiff

