

IN THE COURT OF APPEALS OF THE
STATE OF OREGON

HAMID MICHAEL HEJAZI,
Plaintiff-Appellant,

v.

STATE OF OREGON
and Oregon Secretary of State,
Defendants.

Marion County Circuit Court
20AD03670; A176160

Lindsay R. Partridge, Judge.

Submitted November 5, 2021.

Hamid Michael Hejazi filed the brief *pro se*.

Before Lagesen, Presiding Judge, and James, Judge, and
Kamins, Judge.

PER CURIAM

Appeal dismissed.

PER CURIAM

Plaintiff, who is incarcerated, sought to file an action against the State of Oregon and Oregon Secretary of State. He requested a waiver of fees to file the action and a waiver of sheriff's service fees because he was indigent. The trial court approved the waiver of filing fees but, without explanation, denied his request to waive sheriff's service fees. Plaintiff appealed the order denying his sheriff's service fee-waiver request. *See, e.g., Hejazi v. Gifford*, 314 Or App 534, 535, ___ P3d ___ (2021) (denial of fee waiver for indigent plaintiff is appealable).

Despite never being served a summons, the Attorney General made a voluntary appearance as representative for the state and the Secretary of State, thereby waiving respondents' right to service. *De Foe v. De Foe*, 88 Or 549, 552, 169 P 128 (1917) (the district attorney's "voluntary personal appearance at the trial *** [is] equivalent to the service of [a] summons"); *N. W. National Ins. Co. v. Averill*, 149 Or 672, 682, 42 P2d 747 (1935) ("[S]ervice of a summons *** is waived by a voluntary appearance."). This, as plaintiff himself acknowledged in a letter to the trial court, caused his request for waiver of service fees to become moot. It also has the same effect on this appeal, because any decision as to whether the trial court's denial of the waiver was wrong or right would have no effect on plaintiff's rights.

Appeal dismissed.