

IMPORTANT NOTICE REGARDING APPEALS
PLEASE READ CAREFULLY BEFORE YOU FILE A NOTICE OF APPEAL.

A prisoner seeking to appeal a judgment of the district court must file a notice of appeal in the district court. **Upon filing a notice of appeal in district court, a prisoner is responsible for payment of the full \$455 appellate filing fee regardless of the outcome of the appeal.** 28 U.S.C. § 1915.

A prisoner must pay the appellate filing fee in one of two ways:

(1) Immediate payment of the full filing and docketing fees for the appeal. Submit a money order, check, or cash in the amount of \$455 to the district court (checks and money orders should be made payable to: "Clerk of the United States District Court"),

OR

(2) Submit to the district court clerk a motion for leave to proceed in forma pauperis on appeal. If the motion is granted, an initial partial payment will be deducted from the prisoner's funds with the remainder of the fees paid on an installment basis. A notice of appeal serves as consent to deduct the initial partial appellate filing fee and the remaining installments from the prisoner's institutional account by prison officials. The directions and forms for filing an application to proceed in forma pauperis on appeal are attached to this notice.

If the court determines that the prisoner has no assets and no means by which to pay the initial partial filing fee, the prisoner will still be liable for the entire \$455, but the case will be allowed to proceed without any initial payment. When funds become available in the prisoner's account, the prisoner will begin paying the full \$455 on the installment plan.

Proceeding In Forma Pauperis on Appeal

If you wish to proceed in forma pauperis on appeal, you must submit all of the following to the district court clerk:

- (1) a motion for leave to proceed in forma pauperis on appeal,
- (2) a financial affidavit, and
- (3) within 30 days of filing the notice of appeal, a certified copy of your prison account statement for the last six months.

Even if you were granted in forma pauperis status when you filed your complaint in this case, you must provide updated in forma pauperis information. Failure to file the prison account information will result in the assessment of an initial partial appellate fee of \$35 or some other reasonable amount based on whatever information about your finances the court has.

Once the district court clerk's office receives all of the above documents, it will determine whether you may proceed in forma pauperis on appeal and whether to certify to the Eighth Circuit that the appeal is not taken in good faith. See 28 U.S.C. § 1915(a)(3) and Federal Rule of Appellate Procedure 24(a)

If you are permitted to proceed in forma pauperis, the court will calculate the initial partial payment which is an amount equal to 20% of the greater of:

- (1) the average of the monthly deposits into your trust account during the last 6 months, or
- (2) the average of the monthly balance of your trust account during the last 6 months.

You and the appropriate prison official will receive an order assessing your initial partial payment. **You are responsible for paying the balance of the \$455 fee in monthly installments.** For example, if the court assesses an initial partial payment of \$25, you must pay the remaining \$230 in monthly installments, **REGARDLESS OF THE OUTCOME OF YOUR APPEAL.** Each monthly installment will be equal to 20% of the preceding month's income credited to your account. Prison officials will deduct these amounts and send them to the district court.

If the district court rules that your appeal is not taken in good faith, it will deny you the right to proceed on appeal in forma pauperis and certify to the Court of Appeals for the Eighth Circuit that the appeal is not taken in good faith. If you still wish to pursue the appeal in forma pauperis, you must file a motion to proceed in forma pauperis with the Eighth Circuit under Fed. R. App. P. 24(a). Upon filing a Rule 24(a) motion, you immediately will be responsible for paying the appellate fee either on the installment plan, or all at once if you have three dismissals under § 1915(g).

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