

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

JONATHAN LEE RICHES.)	CASE NO. 1:07 CV 2486
)	
Plaintiff.)	
)	
v.)	
)	<u>ORDER</u>
LEBRON JAMES. <u>et al.</u>)	
)	
Defendants.)	

On August 30, 2007, pro se plaintiff Jonathan Lee Riches filed a Notice of Appeal in the above-captioned civil case. Pursuant to 28 U.S.C. § 1915(a), a court may authorize the commencement of an appeal without prepayment of fees if an applicant has shown by affidavit that he satisfies the criterion of poverty. However, prisoners become responsible for paying their filing fees and costs from the moment the notice of appeal is filed. 28 U.S.C. § 1915(b); McGore v. Wrigglesworth, 114 F.3d 601, 604 (6th Cir.1997). When an inmate seeks pauper status, the only issue for the court to determine is whether the inmate pays the entire fee at the initiation of the proceeding or over a period of time under an installment plan. Id. Prisoners are no longer entitled to a waiver of fees and costs. Id. Therefore, prisoners pursuing an appeal must either pay the full filing for the appeal of \$455, or seek pauper status by filing a financial application and a certified copy of the prisoner's trust account statement for the six month period immediately preceding the filing of the notice of appeal. 28 U.S.C. § 1915(a)(2); McGore, 114 F.3d at 608.

Plaintiff is a prisoner in a correctional institution. Furthermore, he has not paid the

filing fee of \$455 nor has he requested pauper status for this appeal. Accordingly, pursuant to 28 U.S.C. § 1915(b), plaintiff is hereby ordered to pay the full fee of \$455 if funds to pay it exist in his prisoner account.¹ If plaintiff does not have funds in the account to pay the entire fee at once, he is ordered to complete and submit the accompanying Financial Application for Appeal, including a certified copy of his trust account statement, within 30 days of the date of this order. **Plaintiff is to submit the entire Application at one time.** The court will assess, and when funds exist, collect the full fee as provided by law.

Plaintiff is hereby notified that if he does not pay the full filing fee or file the Financial Application within thirty (30) days, the United States Court of Appeals for the Sixth Circuit may dismiss the appeal for want of prosecution under Rule 45(a) of the Rules of the Sixth Circuit, and this court will assess the filing fee. Further, if the appeal is dismissed for want of prosecution, it will not be reinstated despite payment of the full filing fee or subsequent correction of the deficiency.

IT IS SO ORDERED.

FILED
SEP 04 2007
CLERK OF COURTS
U.S. DISTRICT COURT, N.D.O.
CLEVELAND


CHRISTOPHER A. BOYKO
UNITED STATES DISTRICT JUDGE

¹ **Checks are to be made payable to: Clerk, U.S. District Court. Plaintiff's name and this case number must appear on the check. Only a single, full payment in the amount of \$455.00 will comply with this court's order.**

APL-1 (7/96) N.D. OHIO

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

FINANCIAL APPLICATION
FOR APPEAL

In order for the court to determine whether to grant in forma pauperis status on appeal, you must complete and submit all parts of this Application together at one time. The Application includes:

1. The Affidavit Accompanying Motion for Permission to Appeal In Forma Pauperis
2. The Request for Certified Account Statement and Acknowledgment of Understanding

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IF YOU CURRENTLY HAVE \$455 IN YOUR ACCOUNT, YOU SHOULD NOT COMPLETE THIS APPLICATION. INSTEAD, IF YOU WISH TO PURSUE YOUR APPEAL, YOU SHOULD SUBMIT A CHECK FOR THE FULL FEE, WHICH IS \$455.00.

CHECKS ARE TO BE MADE PAYABLE TO:

Clerk, U.S. District Court

IF YOU DO NOT HAVE FUNDS TO PAY THE FULL FEE, COMPLETE THE APPLICATION, WHICH INCLUDES: 1) THE AFFIDAVIT OF PRISONER, AND 2) THE REQUEST FOR CERTIFIED ACCOUNT STATEMENT AND ACKNOWLEDGMENT OF UNDERSTANDING.

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FORM 4.

**AFFIDAVIT ACCOMPANYING MOTION FOR
PERMISSION TO APPEAL IN FORMA PAUPERIS**

United States District Court for the
_____ District of _____

A. B., Plaintiff]

|

v.]

Case No.

|

C. D., Defendant]

Affidavit in Support of Motion

Instructions

I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury under United States laws that my answers on this form are true and correct. (28 U.S.C. §§ 1746; 18 U.S.C. §§ 1621.)

Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.

Signed: _____

Date:

My issues on appeal are:

For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$ _____	\$ _____	\$ _____	\$ _____
Self-employment	\$ _____	\$ _____	\$ _____	\$ _____
Income from real property (such as rental income)	\$ _____	\$ _____	\$ _____	\$ _____
Interest and dividends	\$ _____	\$ _____	\$ _____	\$ _____
Gifts	\$ _____	\$ _____	\$ _____	\$ _____
Alimony	\$ _____	\$ _____	\$ _____	\$ _____
Child support	\$ _____	\$ _____	\$ _____	\$ _____
Retirement (such as social security, pensions, annuities, insurance)	\$ _____	\$ _____	\$ _____	\$ _____
Disability (such as social security, insurance payments)	\$ _____	\$ _____	\$ _____	\$ _____
Unemployment payments	\$ _____	\$ _____	\$ _____	\$ _____
Public-assistance (such as welfare)	\$ _____	\$ _____	\$ _____	\$ _____
Other (specify):_	\$ _____	\$ _____	\$ _____	\$ _____
	\$ _____	\$ _____	\$ _____	\$ _____

Total monthly income:

2. List your employment history, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

3. List your spouse's employment history, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

4. How much cash do you and your spouse have? \$ _____

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial Institution	Type of Account	Amount you have	Amount your spouse has
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

If you are a prisoner, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

Home (Value)	Other real estate (Value)	Motor Vehicle #1 (Value)
_____	_____	Make & year: _____
_____	_____	Model: _____
_____	_____	Registration # _____

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.

	You	Your Spouse
Rent or home-mortgage payment (including lot rented for mobile home)	\$ ____	\$ ____
Are real estate taxes included? [<input type="checkbox"/>] Yes [<input type="checkbox"/>] No		
Is property insurance included? [<input type="checkbox"/>] Yes [<input type="checkbox"/>] No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ ____	\$ ____
Home maintenance (repairs and upkeep)	\$ ____	\$ ____
Food	\$ ____	\$ ____
Clothing	\$ ____	\$ ____
Laundry and dry-cleaning	\$ ____	\$ ____
Medical and dental expenses	\$ ____	\$ ____
Transportation (not including motor vehicle expenses)	\$ ____	\$ ____
Recreation, entertainment, newspapers, magazines, etc.	\$ ____	\$ ____
Insurance (not deducted from wages or included in mortgage payments)	\$ ____	\$ ____
Homeowner's or renter's		
Life	\$ ____	\$ ____
Health	\$ ____	\$ ____
Motor vehicle	\$ ____	\$ ____
Other:	\$ ____	\$ ____
Taxes (not deducted from wages or included in mortgage payments) (specify):	\$ ____	\$ ____
Installment payments	\$ ____	\$ ____
Motor Vehicle	\$ ____	\$ ____
Credit card (name):	\$ ____	\$ ____
Department store (name):	\$ ____	\$ ____
Other:	\$ ____	\$ ____
Alimony, maintenance, and support paid to others	\$ ____	\$ ____
Regular expenses for operation of business, profession, or farm (attach detail)	\$ ____	\$ ____
Other (specify):	\$ ____	\$ ____
Total monthly expenses:	\$ ____	\$ ____

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

Yes No If yes, describe on an attached sheet.

10. Have you paid-or will you be paying-an attorney any money for services in connection with this case, including the completion of this form?

Yes No If yes, how much? \$_____

If yes, state the attorney's name, address, and telephone number:

11. Have you paid-or will you be paying-anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

Yes No If yes, how much? \$_____

If yes, state the person's name, address, and telephone number:

12. Provide any other information that will help explain why you cannot pay the docket fees for your appeal.

13. State the address of your legal residence.

Your daytime phone number: (____) _____

Your age:_____ Your years of schooling: _____

Your social-security number:

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

REQUEST FOR CERTIFIED ACCOUNT STATEMENT
AND
ACKNOWLEDGMENT OF UNDERSTANDING

I request that an authorized officer of the institution in which I am confined, or other designated entity, complete the section below concerning my prisoner account statement. Pursuant to amended 28 U.S.C. § 1915:

I UNDERSTAND THAT:

If I commence an appeal in the United States Court of Appeals for the Sixth Circuit, the fee is \$455.00.

FURTHER, I understand that:

If I do not have the funds to pay the full fee as provided above, I must pay an initial partial fee of 20% of the greater of

-- the average monthly deposits in my account

OR

-- the average monthly balance in my account

for the 6 month period immediately preceding the filing of my notice of appeal.

FURTHER, I understand that:

If I do not currently have funds in my prisoner account to pay the initial partial fee, the agency having custody of me is required by law to and will forward said fee when funds become available in my account.

FURTHER, I understand that:

After the payment of the initial partial fee, the agency having custody of me is required by law to and will forward installment payments from my account equaling 20% of the preceding month's income credited to my account each time the amount in the account exceeds \$10. Such installment payments must be made until the fee is paid in full.

FURTHER, I understand that:

Regardless of the outcome of my appeal, I am liable for the full fee. I further understand that I will continue to be liable for the full amount of the fee even after I am released from incarceration.

I have read the forgoing information, and I understand that if I submit this Application, the court will assess and, when funds exist, collect the full fee in the manner set forth above. I further understand that no money should be sent with this Application.

I authorize the correctional facility in which I am housed and any correctional facility to which I am transferred to withdraw from my trust fund account and forward to the federal court a) an initial partial filing fee for this action (20% of greater of my average monthly deposits or average monthly balance for the past six months), and b) subsequent monthly payments (20% of my previous month's deposits) until I have paid the full filing fee of \$455 for this action.

Print your name _____

Signature and Prisoner #

Date

=====

TO BE COMPLETED BY AUTHORIZED OFFICER OF INSTITUTION (PLEASE ATTACH LEGIBLE CERTIFIED COPY OF INMATE'S PRISONER ACCOUNT STATEMENT FOR THE PREVIOUS SIX MONTH PERIOD):

I certify that the attached is a true and accurate copy of the inmate's prisoner account statement.

Authorized Officer of Institution