



Sheila T. Reiff
Clerk

WISCONSIN SUPREME COURT

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To:

Mark A. Fruehauf
District Attorney
1313 Belknap St., Room 201
Superior, WI 54880-2769

Jacob J. Wittwer
Attorney Generals Office
Post Office Box 7857
Madison, WI 53707-7857

Frank Tyrone Whitehead #583068
Columbia Correctional Inst.
P.O. Box 900
Portage, WI 53901-0900

Michele Wick
Clerk of Circuit Court
Douglas County Courthouse
1313 Belknap Street, Ste. 309
Superior, WI 54880

The court has entered the following order:

District: 3

Appeal No. 2018AP000083

State v. Frank Tyrone Whitehead

December 23, 2020

Circuit Court Case No. 2012CF000133

A petition for waiver of fees has been filed in the above matter. The petition establishes indigency for purposes of prosecuting this action.

IT IS ORDERED that the court grants permission to proceed without payment of the filing fee. This order waives only the filing fees in the Supreme Court. It is not a determination of indigency for any other purpose. Indigency may be reevaluated if a request is received for waiver of other fees based on indigency.

Sheila T. Reiff
Clerk of Supreme Court

INCARCERATED PERSON INDIGENCY DETERMINATION

Appeal No.: 184883Petitioner: Frank Tyrone Whithead

- Trust account information is not provided for eligible prisoner matter; DISMISS CASE:
- * Add the prisoner's institution and DOJ, Civil Litigation Unit to Other Interested Parties (OIP) from the Parties tab.
 - * Enter activity code INP.
 - * Complete INF/IND activity.
 - * CA: Enter DEC-ORD with disposition code of TDIS in CA; Focus on DEC, select form AP-1024
 - * SC: Use **Setdis** Order in Act 133 Folder, Shr_Clk Dir. Dismiss PRE- submit to 9990, enter M w/ comment "request to waive denied, PRE dismissed w/o prejudice" Dispose of Indigency-enter O w/ comment ORD TDISM. Set remittitur for 30 days, retain copies PRE/responses.
- Authorization to withdraw funds not provided; enter CTA. Focus on activity, Print-Select AP-1034; send Authorization.
- Waiver of prepayment of filing fee is granted:
- * Add the prisoner's institution and DOJ, Civil Litigation Unit to OIP from the Parties tab, if not already there.
 - * Enter activity code INP.
 - * Complete INF/IND activity. Focus on activity, Print-Select AP-1028 (freezes acct.)
 - * Create an invoice for the filing fee. Add the prisoner as the Responsible Party. Add the institution as an Other Interested Party. Create follow-up for 60 days.
 - * Asst. Deputy Clerk-Accounting monitors payments. This Asst. will unfreeze accts & remove after receipt of all payments.
- Filing fee waiver conditionally granted; inmate must make a partial payment equal to the amount in his/her prison accts. with the remainder to be sent by the institution:
- * Add the prisoner's institution and DOJ, Civil Litigation Unit to OIP from the Parties tab.
 - * Enter activity code INP with \$ _____, which is the initial amount due, on the comment line.
 - * Complete INF/IND activity. Focus on the activity, Print-Select AP-1026 (freezes acct.)
 - * Create an invoice for the \$195.00 filing fee with \$ _____ due within 30 days. Add the prisoner as the Responsible Party & Inst. as OIP.
 - * Upon receipt of the partial payment, the Asst. Deputy Clerk-Accounting will issue a letter to the custodian, Custltr.doc, providing the remaining amount due and add CUS activity code.
 - * Asst. Deputy Clerk-Accounting monitors payments. This Asst. will unfreeze & remove inst. after receipt of all payments.
 - * If the partial filing fee is not paid, the Asst. Deputy Clerk-Accounting refers the matter to the appropriate Deputy Clerk.
 - * Submit to staff attorney for a determination on dismissal of the case. If the case is dismissed due to failure to pay the partial fee, enter dismissal as a DEC-ORD with a disposition code of DDIS. Focus on DEC, Print-Select AP-1032. For SC-submit to commissioner.
- Filing fee waiver conditionally granted. (has sufficient funds in release account/trust account) **Prisoner is not indigent for filing fee:**
- * Add the prisoner's institution and DOJ, Civil Litigation Unit to OIP from the Parties tab.
 - * Enter INP activity code.
 - * Complete INF/IND activity. Focus on the activity, Print-Select AP-1029.
 - * Create an invoice for the filing fee with a due date of 30 days. Add prisoner as Responsible Party and Institution as OIP.
 - * If the filing fee is not paid, the Asst. Deputy Clerk-Accounting refers the matter to the appropriate Deputy Clerk.
 - * Refer matter to a staff atty/commissioner for failure to pay the filing fee. The staff atty/commissioner will issue an order or direct us to.
- IMMEDIATE DANGER:
- * If a prisoner claims to be in imminent danger, send them a pink petition for waiver of fees/costs.
 - * Add the prisoner's institution and DOJ, Civil Litigation Unit to OIP from the Parties tab.
 - * Upon filing of the petition, submit it to the Chief Deputy Clerk for indigency determination.
 - * Submit petition, w/ indigency determination, to staff attorney w/ a request they inform us how to handle the fee situation — the fee is not waived, but a prisoner in imminent danger does not have to prepay the filing fee or provide trust account stmts. Add prisoner to Responsible Party and Institution as OIP if an invoice is ultimately created.
- Filing fee waiver **denied**. Prisoner is not indigent. Has sufficient funds in regular account. Add inst. and DOJ to OIP from Parties tab. Add INP. Complete INF/IND activity. Create invoice for full filing fee payable in 30 days – add Prisoner as Resp. Party & Inst as OIP. Issue AP-1030. If fee is not paid, dismiss.
- Payment or Waiver request not received:
- * CA –Enter DEC-ORD with dispositional code of DELQ in CA. Use CA **Delinquency dismissal** order in Act 133 folder, Shr_Clk Dir
 - * SC –Use **SCDismissnonpymt** Order in Act 133 Folder, Shr_Clk.Dir. Dismiss PRE by submit to 9990, enter M w/ comment "PRE dismissed w/o prejudice, failure file pymt of waiver." Dispose of indigency w/ comment ORD DDISM. Set remittitur for 30 days, retain copies of PRE/responses. (Writ: enter DEC-ORD WDIS).
- REINSTATEMENT: where petition and/or motion filed after case closed or PRE dismissed:
- * CA – submit to staff attorney.
 - * SC – use Order (**SCRein-Trust**, **SCRein-Pymt** or **SCRein Trust & Pymt**) in Act 133 Folder on Shr_Clk.Dir. Enter another PRE as of date of reinstatement.
- NOT A PRISONER UNDER 1997 WIS. ACT 133**--Eligible for total fee waiver, issue form order 3055.
- NOT A PRISONER UNDER 1997 WIS. ACT 133**—NOT INDIGENT, issue form CA-3040a; SC-3040b on Shr_Clk Dir. Create an invoice for the filing fee with a 30-day RSP.

STATE OF WISCONSIN

SUPREME COURT – COURT OF APPEALS, DISTRICT 3

For Official Use

Appellant or Petitioner: *Please print or type.*

FRANK T. WHITEHEAD

-VS-

Petition for Waiver of Fees/Costs - Affidavit of Indigency

FILED

DEC 22 2020

Respondent:

STATE OF WISCONSIN

Case No. ## 18AP83

CLERK OF SUPREME COURT OF WISCONSIN

Under oath I state that because of poverty, I am unable to pay the costs of this action, proceeding, or appeal, or to give security for those costs, and request waiver of those costs. I am attaching and incorporating into this affidavit a brief statement of the nature of the appeal or petition and the relief requested.

Complete Section 1 or 2, as appropriate.

Section 1.

- I currently receive:
 - Supplemental security income
 - Food stamps
 - Benefits for veterans under §45.351(1) or 38 USC 501-562
 - Legal representation from a civil legal services program, a public defender program, or a volunteer attorney program based on indigency. Name of program: _____
 - Other means-tested public assistance: _____
 - Relief funded under Wis. Stats. §59.53(21)
 - Medical assistance
 - Relief funded under public assistance
- My financial situation has has not changed since I became eligible for this program.

If you checked the "has" box, and such changes would make you ineligible for the program(s) if you applied today, you must complete Section 2 below.

Section 2.

Complete this section only if you do not qualify under Section 1 above, or if the instructions for that section require you to complete it.

1. I am am not married.
2. I am am not employed. Name of employer: _____
3. I earn \$ _____ gross weekly. every 2 weeks. twice monthly. monthly.
My take-home pay is \$ _____ per payperiod.
4. I receive monthly income totaling the amount of \$ _____ from:
 - Pension
 - Disability
 - Social security
 - Student loans/grants
 - Unemployment compensation
 - Other: _____
5. I have the following cash assets:
 - Savings accounts: \$ _____
 - Checking accounts: \$ _____
 - Cash: \$ _____
 - Money owed me: \$ _____
6. I have the following other assets:
 - Vehicle-Yr./Make: _____ \$ _____
 - Vehicle-Yr./Make: _____ \$ _____
 - Other individual assets valued over \$200 each: _____ \$ _____
 - Household furnishings: \$ _____
 - Equity in real estate: \$ _____

Continued on Page 2

File original with the Clerk of the Supreme Court – Court of Appeals.

Section 2 Continued:

7. My household consists of myself and _____ others:

Full name: _____	Relationship to me: _____	Under age 18 <input type="checkbox"/> Yes <input type="checkbox"/> No
Full name: _____	Relationship to me: _____	Under age 18 <input type="checkbox"/> Yes <input type="checkbox"/> No
Full name: _____	Relationship to me: _____	Under age 18 <input type="checkbox"/> Yes <input type="checkbox"/> No
Full name: _____	Relationship to me: _____	Under age 18 <input type="checkbox"/> Yes <input type="checkbox"/> No
Full name: _____	Relationship to me: _____	Under age 18 <input type="checkbox"/> Yes <input type="checkbox"/> No

8. The other members of my household have monthly income totaling the amount of \$ _____ from:

<input type="checkbox"/> Wages	<input type="checkbox"/> Social security	<input type="checkbox"/> Relief funded under public assistance	<input type="checkbox"/> Food stamps
<input type="checkbox"/> Pension	<input type="checkbox"/> Student loans/grants	<input type="checkbox"/> Unemployment compensation	<input type="checkbox"/> Supplemental security income
<input type="checkbox"/> Disability	<input type="checkbox"/> Relief funded under §59.53(21), Wisconsin Statutes	<input type="checkbox"/> Support/maintenance	
<input type="checkbox"/> Other: _____			

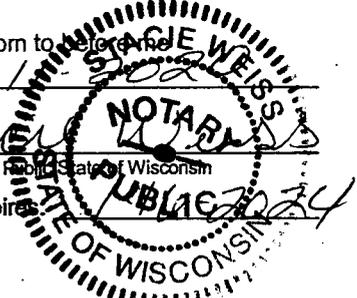
9. I do not receive income from any source because:
 0

10. I have the following unusual debts or expenses, other than ordinary living expenses:
This can include attorneys fees or cash bail, if applicable.

Type:	Amount:
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

11. Anticipated transcript costs for this appeal (as represented to me by the court reporter): \$ _____

- Note:**
- You may attach a brief explanation of circumstances you feel the court should be made aware of in determining indigency.
 - If you are a prisoner who is requesting permission to file an appeal or other proceeding in the supreme court or court of appeals without having to pay fees or costs, you are considered to have consented to the court ordering the prison to deduct the unpaid fees and costs from the prisoner's account if you lose the appeal or other proceeding. Wis. Stats. §814.29(3).

Subscribed and sworn to before me on 12-11-2020


 Notary Public, State of Wisconsin
 My commission expires _____

I understand that if my financial situation changes, I must notify the court immediately.

_____ 12-11-2020
 Affiant Date

STATE OF WISCONSIN

SUPREME COURT – COURT OF APPEALS, DISTRICT 3

For Official Use

FILED

DEC 22 2020

CLERK OF SUPREME COURT OF WISCONSIN

Authorization to Withhold Money From Trust Fund Accounts

I, FRANK T. WHITEHEAD 583068
(Print appellant's or petitioner's name and I.D. number, e.g. DOC. No.)

wish to pursue an action in the:

- Wisconsin Court of Appeals
- Wisconsin Supreme Court

described as follows:

Appeal number, if known: 2018AP837 2012CF133

Name(s) or respondent(s): STATE OF WISCONSIN

Pursuant to Wis. Stats. §814.29(1m)(c)2, I authorize the agency having custody of my prison trust fund account to forward payments from my account to the clerk of court each time the amount in the account exceeds \$10 until the costs and fees are paid in full.


Signature of Appellant or Petitioner

11-27-2020
Date

A copy of this form must accompany Supreme Court – Court of Appeals form number AP-011 or AP-012, Prisoner's Petition for Waiver of Fees/Affidavit of Indigency. Please file the original of this form with the institution custodian.

Custodian:
Give inmate a copy after he or she signs it.