

INCARCERATED PERSON INDIGENCY DETERMINATION

Appeal No.:

02-2478-CRM

Petitioner:

James T. Foote

- ☐ Trust account information is not provided for eligible prisoner matter; DISMISS CASE:
- * Add the prisoner's institution and DOJ, Civil Litigation Unit to Case/Party (251F).
 - * Enter activity code INP.
 - * Complete INF/IND activity.
 - * CA: Enter ORD with disposition code of TDIS in CA; Order #1024 will automatically print.
 - * SC: Use **Scdis** 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 & order #1034 will automatically print; send Authorization.
- ☐ Waiver of prepayment of filing fee is granted:
- * Add the prisoner's institution and DOJ, Civil Litigation Unit to Case/Party (251F).
 - * Enter activity code INP.
 - * Complete INF/IND activity; from drop down box, enter order #1028 (freezes acct.)
 - * Create an invoice for the filing fee. Address the invoice to the prisoner's inst. 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 Case/Party (251F).
 - * Enter activity code INP with \$ _____, which is the initial amount due, on the comment line.
 - * Complete INF/IND activity; from drop down box, enter order #1026 (freezes acct.)
 - * Create an invoice reflecting the \$195.00 filing fee with \$ _____ due within 30 days.
 - * 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 ORD with a disposition code of DDIS. Order #1032 will automatically print. SC-submit to commr.
- ☐ Filing fee waiver conditionally granted. **Prisoner is not indigent for filing fee:**
- * Add the prisoner's institution and DOJ, Civil Litigation Unit to Case/Party (251F).
 - * Enter INP activity code.
 - * Complete INF/IND activity; from drop down box, enter order #1029.
 - * Create an invoice for the filing fee with a due date of 30 days.
 - * 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.
- ☐ IMMINENT 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 Case/Party (251F).
 - * 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.
- ☐ Filing fee waiver **denied**. Prisoner is not indigent. Add inst. and DOJ; add INP; complete INF/IND activity; create invoice for full filing fee payable in 30 days; issue order 1030. If fee is not paid, dismiss.
- ☐ Payment or Waiver request not received:
- * CA -Enter ORD with dispositional code of DELQ in CA. Use **CA Delinquency dismissal** order in Act 133 folder, Shr_Clk Dir
 - * SC -Use **SCDisnonpymt** 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 ORD WDIS, issue remittitur immediately, do not retain copies)
- ☐ 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. *conviction*
- ☐ **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

Appeal/Petition Number:

02-2478-CRNM

Fee Waiver Determination

Appellant/Petitioner:

James F. Fook

Section 1: If appellant/petitioner is the recipient of means tested public assistance including: aid to families with dependent children, relief funded under public assistance, relief funded under s. 59.53(21), Wis. Stats., medical assistance, supplemental security income, food stamps or benefits received by veterans under s. 45.351(1) or under 38 USC 501 to 562 or represented by an attorney through a legal services program for indigent persons, including those funded by the federal legal services corporation, fee waiver is automatic pursuant to s. 814.29(1)(d) 1 & 2, Stats. Issue appropriate waiver order.

If appellant/petitioner does not meet the above criteria, compute fee waiver eligibility from information provided on the Petition for Waiver of Fee/Costs, Affidavit of Indigency:

1. Liquid Assets (Total of Section 2.5)	1.	0	356.17 release
2. Non-Liquid Assets (25% of Total of Section 2.6)	2.	0	
3. TOTAL ASSETS (Add lines 1 & 2)	3.	0	
4. Net Monthly Income (Total of Sections 2.3, 2.4 and 2.8 (Do not include Prison Wages))	4.	0	60.20 prison wage
5. Monthly Allowable Living Expenses (Current Federal Poverty Guidelines; Deemed to be -0- for Prisoners)	5.	0	
6. MONTHLY SPENDABLE INCOME (Subtract 5 from 4)	6.	0	
7. TOTAL OF LINES 3 AND 6 (Total Assets and Spendable Monthly Income)	7.	0	
8. Total Unusual Debts/Expenses (Section 2.10)	8.	0	
9. Filing Fee (See s. 809.25, Stats.)	9.	195.00	
10. Anticipated Cost of Transcript (Section 2.11)	10.	0	
11. Other Anticipated Appeal/Petition Costs (Include an estimated costs for briefs.)	11.	0	
12. TOTAL OF LINES 9 THROUGH 11	12.	195.00	
Computation for Fee Waiver Determination	A. Enter amount from Line 7	A.	0
	B. Enter amount from Line 8	B.	0
	C. Subtract line 8 from line 7	C.	0
	D. Enter amount from line 12	D.	195.00

1. Fee should be waived if line C is 0% to 100 % of line D.
2. Filing fee should be paid if Line C is 100% to 150% of Line D. Whether costs can be assessed against appellant/petitioner cannot be determined until merits of appeal are resolved and statement of respondent's costs are filed.
3. Filing fee should not be waived if Line C is 150% of Line D.
4. Dismiss case. Enter ORD dismissal with dispositional code of DELQ in CA. Use CA Delinquency Dismissal in Shr_Clk.

See reverse side for Federal Poverty Income Guidelines

2003 HHS Poverty Guidelines

Size of Family Unit	48 Contiguous States and D.C.	Alaska	Hawaii
1	\$ 8,980	\$11,210	\$10,330
2	12,120	15,140	13,940
3	15,260	19,070	17,550
4	18,400	23,000	21,160
5	21,540	26,930	24,770
6	24,680	30,860	28,380
7	27,820	34,790	31,990
8	30,960	38,720	35,600
For each additional person, add	3,140	3,930	3,610

SOURCE: *Federal Register*, Vol. 68, No. 26, February 7, 2003, pp. 6456-6458.

The separate poverty guidelines for Alaska and Hawaii reflect Office of Economic Opportunity administrative practice beginning in the 1966-1970 period. Note that the poverty thresholds — the original version of the poverty measure — have never had separate figures for Alaska and Hawaii. The poverty guidelines are not defined for Puerto Rico, the U.S. Virgin Islands, American Samoa, Guam, the Republic of the Marshall Islands, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, and Palau. In cases in which a Federal program using the poverty guidelines serves any of those jurisdictions, the Federal office which administers the program is responsible for deciding whether to use the contiguous-states-and-D.C. guidelines for those jurisdictions or to follow some other procedure.

The poverty guidelines apply to both aged and non-aged units. The guidelines have never had an aged/non-aged distinction; only the Census Bureau (statistical) poverty thresholds have separate figures for aged and non-aged one-person and two-person units.

Programs using the guidelines (or percentage multiples of the guidelines — for instance, 125 percent or 185 percent of the guidelines) in determining eligibility include Head Start, the Food Stamp Program, the National School Lunch Program, the Low-Income Home Energy Assistance Program, and the Children's Health Insurance Program. Note that in general, cash public assistance programs (Temporary Assistance for Needy Families and its predecessor Aid to Families with Dependent Children, and Supplemental Security Income) do NOT use the poverty guidelines in determining eligibility. The Earned Income Tax Credit program also does NOT use the poverty guidelines to determine eligibility.

The poverty guidelines (unlike the poverty thresholds) are designated by the year in which they are issued. For instance, the guidelines issued in February 2003 are designated the 2003 poverty guidelines. However, the 2003 HHS poverty guidelines only reflect price changes through calendar year 2002; accordingly, they are approximately equal to the Census Bureau poverty thresholds for calendar year 2002. (The 2002 thresholds are expected to be issued in final form in September or October 2003;

STATE OF WISCONSIN
SUPREME COURT - COURT OF APPEALS, DISTRICTAppellant or
Petitioner: Please print or type.

James F Foote

PRISONER'S PETITION FOR
- WAIVER OF FEES/
AFFIDAVIT OF INDIGENCY

FILED

FEB 19 2004

Clerk of Supreme Court
Madison, WI

Respondent:

State of Wisconsin

Case No.

02-2478-CNM

Under oath I state that:

- I am unable to prepay the costs of this action, special proceeding or appeal or to give security for those costs, and request waiver of those costs as permitted by law because of poverty. I am attaching and incorporating into this affidavit a brief statement of the nature of the appeal or petition and the relief requested.
- I have not had three or more appeals, writs of error, actions or special proceedings dismissed by a state or federal court for any of the reasons listed in §802.05(3)(b)1-4, Wis. Stats.

Complete all Sections. Failure to properly complete this petition/affidavit may result in the denial of the petition for waiver.

Section 1.

I currently receive:

- ☐ Supplemental security income ☐ Relief funded under §59.53(21), Wis. Stats. ☐ Medical assistance
☐ Food stamps ☐ Relief funded under public assistance
☐ 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: _____

My financial situation ☐ has ☐ has not changed since I became eligible for this program.

Section 2.

1. I ☐ am ☒ am not married.
 2. I ☒ am ☐ am not employed. Name of employer: Dept of Corrections, Wisconsin State Prison (Team Leader)
 3. I earn \$ 28.00 gross ☐ weekly. ☐ every 2 weeks. ☒ twice monthly. ☐ monthly.

4. I have received or been entitled to receive money from the following sources within the past 12 months (list total amount):

- ☐ pension, annuities, or life insurance payments: \$ _____
☐ disability or worker's compensation payments: \$ _____
☐ gifts, loans or inheritances: \$ _____
☐ rent payments, interest or dividends: \$ _____
☐ business, professional or self-employment: \$ _____
☐ other: \$ _____

5. I have the following cash assets:

- ☐ savings accounts: \$ _____
☐ checking accounts: \$ _____
☐ cash: \$ _____
☐ money owed me: \$ _____
☒ other cash assets: \$ 356.17 (Release Account)

6. I have the following other assets (list value):

- ☐ real estate: \$ _____
☐ stocks, bonds, securities and financial instruments: \$ _____
☐ automobiles: \$ _____
☐ computers, audio-visual equipment, other personal property: \$ _____
☐ jewelry, antiques, objects of art or other valuable property: \$ _____
☐ other: \$ _____

Continued on Page 2

** File original with the Clerk of the Supreme Court - Court of Appeals. **

Section 2 Continued:

7. I have the following legal obligations:

Obligation	Amount Actually Paid per Month	Amount Actually Paid in Last 6 Months
<input checked="" type="checkbox"/> Child Support	\$ 0	\$ 0
<input type="checkbox"/> Restitution	\$	\$
<input type="checkbox"/> Fines/Costs	\$	\$
<input type="checkbox"/> Other:	\$	\$

8. My spouse ☐ is ☐ is not employed. Name of employer: _____9. My spouse earns \$ _____ gross ☐ weekly. ☐ every 2 weeks. ☐ twice monthly. ☐ monthly.

10. My spouse receives monthly income totaling the amount of \$ _____ from.

- ☐ pension ☐ social security ☐ unemployment compensation
☐ disability ☐ student loans/grants ☐ other: _____

11. My spouse's household consists of myself and _____ others:

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

12. I have the following miscellaneous expenses:

_____ \$ _____
 _____ \$ _____

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

Section 3

1. I ☐ am ☒ am not a person committed under chapter 980 (sexually violent person).
 2. I ☐ am ☒ am not a person seeking relief from a judgment or order terminating my parental rights.
 3. I ☒ am ☒ am not a person seeking relief from a judgment of conviction or sentence of a court, whether in a direct appeal or by collateral attack.
 4. I ☐ am ☒ am not a person seeking appellate review under Rule 809.50 of an order or judgment not appealable as of right in a proceeding under chapter 980 or in a case specified under Rules 809.30 or 809.40.
 5. I ☐ am ☒ am not a person who is not serving a sentence for the conviction of a crime but who is detained, admitted or committed under chapter 51 or 55 or section 971.14(2) or (5).

Section 4

- I have checked "am not" to ALL of the statements in Section 3. As required by law, I have attached a certified copy of my prison trust fund account statement for the last 6 months.
- I have also attached a copy of my authorization to 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.

Note:

You may attach a brief explanation of circumstances you feel the court should be made aware of in determining indigency.

Subscribed and sworn to before me

on February 16, 2004

[Signature]

Notary Public, State of Wisconsin

My commission expires: 9-24-06

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

[Signature]
Affiant

2-16-04
Date

AUTHORIZATION TO WITHHOLD MONEY FROM TRUST ACCOUNT

I, James F. Foote, 196400,
(Print Plaintiff's Name) (ID Number, e.g. DOC No.)

wish to commence a lawsuit described as follows:

Name(s) of defendant(s)

Name of court (e.g. Circuit Court for Dodge County)

Subject of the lawsuit (e.g. disciplinary ticket #)

If the court permits me to commence this lawsuit, I understand that the DOC will freeze my trust fund account until the deposits to that account have paid the amount owed for the costs and fees of this lawsuit. By my signature below I authorize the agency having custody of my prison trust fund account to forward the balance in my account to the clerk of court each time the amount in the account reaches \$10 until the costs and fees are paid in full.

James F. Foote
(Signature of Plaintiff)
2.16.04
(Date Signed)

CUSTODIAN:

Give offender a copy after he or she signs it. File original with the court.

When suit is filed and served, the court enters case number here: _____.

**INSTRUCTION TO OFFENDER: THE ORIGINAL OF THIS FORM
MUST ACCOMPANY FORMS CV-438 or CV-440, or SCA-12:
PRISONER'S PETITION FOR WAIVER OF FEES/COSTS –
AFFIDAVIT OF INDIGENCY.**