

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

Plaintiff/Petitioner - Appellant, v. Defendant/Respondent - Appellee.	Case No. _____ <input type="checkbox"/> Motion for Leave to Proceed on Appeal Without Prepayment of Costs or Fees (Part A) and <input type="checkbox"/> Appellant/Petitioner's Opening Brief (Part B)
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PART A
NOTICE AND INSTRUCTIONS

Your motion for leave to proceed on appeal without prepayment of costs or fees a will be evaluated by the court using these standards:

Leave to Proceed Without Prepayment of Costs or Fees. You must meet all of the requirements of the Prisoner Litigation Reform Act (PLRA), Pub. L. No. 104-134, 110 Stat. 1321 (Apr. 26, 1996); 28 U.S.C. § 1915. This includes submitting the certified statement of trust account and authorization to deduct funds attached to this form. The forms will not be considered unless they are complete.

FAILURE TO SET FORTH FACTS AND ARGUMENTS SHOWING THAT YOU MEET THE APPROPRIATE STANDARD WILL SUBJECT YOUR APPEAL TO DISMISSAL WITHOUT FURTHER NOTICE.

You may use Part A of this form to furnish a statement of the case, the issues you intend to raise on appeal, and the reasons your appeal meets the applicable standards. The form is intended to guide you in meeting the above standards. If you need more space to answer, additional pages may be attached. The information you furnish, together with the full record of the proceedings in the district court, will be the basis for this court's decision. You should bear in mind that an appeal is not a retrial, but rather a **review** of the district court's judgment and record of proceedings.

APPLICATION AND/OR MOTION

1. Statement of the Case. (This should be a brief summary of the proceedings in the district court.)

2. Issues to be Raised on Appeal. (New issues raised for the first time on appeal generally will not be considered.)

3. Summary of Your Argument Showing that Your Appeal Meets the Appropriate Standards.

4. Do you think the district court applied the wrong law? If so, what law do you want applied?

5. Did the district court incorrectly decide the facts? If so, what facts?

6. Did the district court fail to consider important grounds for relief? If so, what grounds?

7. Do you feel that there are any other reasons why the district court's judgment was wrong? If so, what?

8. What action do you want this court to take in your case?

9. Were you required to seek and exhaust administrative remedies prior to filing your claim in district court? If yes, what steps did you take to exhaust those remedies?

Date

Signature

FINANCIAL DECLARATION

Affidavit in Support of Motion to Proceed on Appeal in Forma Pauperis

I swear or affirm under penalty of perjury that because of my poverty I am unable to pay the docket fees of my appeal or to post a bond for them. I believe I am entitled to a different result than that reached in the district court.

I further swear or affirm under penalty of perjury that the responses which I have made to the questions and instructions below relating to my ability to pay the fees for my appeal are true.

Instructions. Please complete all questions in this application and then sign it on the last page. If the answer to any question is "0" or "none," or the question is "not applicable", so indicate by writing "0", "none", or "not applicable (N/A)". If additional space is needed to answer any question or to explain your answer to any question, please use and attach a separate sheet of paper identified with your name, the docket number of your case and the number of the question.

1. Are you or your spouse currently employed? Yes _____ No _____
2. If you or your spouse are currently employed, state the name and address of your employer, the length of your employment with that employer, and your monthly gross pay. Gross pay is pay before any taxes or other deductions are taken. If you have more than one employer, please provide the information requested below about the other employer(s) on a separate sheet of paper and attach it to this application.

Yourself:

Your Spouse:

Name and Address of Employer

Name and Address of Employer

Length of Employment

Length of Employment

Years Months

Years Months

Monthly Gross Pay \$ _____

Monthly Gross Pay \$ _____

3. If you are currently unemployed, state the date of your last employment and your monthly gross pay during your last month of employment. Gross pay is pay before any taxes or other deductions are taken.

Date of last employment (Month/Year) for yourself _____; spouse _____

Monthly gross pay during last month of employment \$ _____

4. State whether you or your spouse have received money from any of the following sources during the past twelve months, and, if so, the average monthly amount from that source. Adjust any money that was received weekly, bi-weekly, quarterly, semi-annually, or annually to show the monthly rate.

Did you receive money from any of the following sources during the past 12 months?

Average monthly amount during past 12 months for you and your spouse if applicable.

Amount expected next month

	Y/N	Average monthly amount during past 12 months for you and your spouse if applicable.		Amount expected next month	
		You	Spouse	You	Spouse
Self-employment	Y/N	\$ _____	\$ _____	\$ _____	\$ _____
Income from real property (such as rental income)	Y/N	\$ _____	\$ _____	\$ _____	\$ _____
Interest and dividends	Y/N	\$ _____	\$ _____	\$ _____	\$ _____
Gifts	Y/N	\$ _____	\$ _____	\$ _____	\$ _____
Alimony	Y/N	\$ _____	\$ _____	\$ _____	\$ _____

Child Support	Y/N ___	\$ _____	\$ _____	\$ _____	\$ _____
Retirement income from sources such as social security, private pensions, annuities, or insurance policies	Y/N ___	\$ _____	\$ _____	\$ _____	\$ _____
Disability payments such as social security, other state or federal government, or insurance payments	Y/N ___	\$ _____	\$ _____	\$ _____	\$ _____
Unemployment payments	Y/N ___	\$ _____	\$ _____	\$ _____	\$ _____
Public assistance payments such as welfare payments	Y/N ___	\$ _____	\$ _____	\$ _____	\$ _____
Other sources of money (specify: _____)	Y/N ___	\$ _____	\$ _____	\$ _____	\$ _____
 TOTAL			\$ _____	\$ _____	\$ _____

5. State the amount of cash you and your spouse have: \$ _____

State below any money you or your spouse have in savings, checking, or other accounts in a bank or other financial institution.

Bank or Other Financial Institution:	Type of Account such as savings, checking, or CD:	Amount you have:	Amount your spouse has:
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____

If you have funds in a prison or other similar institutional account, the Certified Statement of Institutional Account for the Past Six Months at the end of this form must be completed by the institution.

6. State below the assets owned by you and your spouse. **Do not list ordinary household furnishings and clothing.**

Home	Address: _____ _____	Value: \$ _____ Amount owed on mortgages and liens: \$ _____
Other real estate	Address: _____ _____	Value: \$ _____ Amount owed on mortgages and liens: \$ _____
Motor vehicle	Model/Year: _____ _____	Value: \$ _____ Amount owed: \$ _____
Motor vehicle	Model/Year: _____ _____	Value: \$ _____ Amount owed: \$ _____
Other	Description: _____ _____	Value: \$ _____ Amount owed: \$ _____

7. State below any person, business, organization, or governmental unit that owes you or your spouse money and the amount that is owed.

Name of Person, Business, or Organization that Owes You or Your Spouse Money	Amount Owed You:	Amount Owed Your Spouse:
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____

8. State the individuals who rely on you and your spouse for support. Indicate their relationship to you, their age, and whether they live with you.

Name	Relationship	Age	Does this person live with you?	
_____	_____	_____	Yes _____	No _____
_____	_____	_____	Yes _____	No _____
_____	_____	_____	Yes _____	No _____
_____	_____	_____	Yes _____	No _____

9. Complete this question by estimating the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, bi-weekly, quarterly, semi-annually, or annually to show the monthly rate.

	You	Spouse
Rent or home mortgage payment (include lot rented for mobile home)	\$ _____	\$ _____

Are real estate taxes included? Yes _____ No _____

Is property insurance included? Yes _____ No _____

Utilities: Electricity and heating fuel	\$ _____	\$ _____
Water and sewer	\$ _____	\$ _____
Telephone	\$ _____	\$ _____
Other _____	\$ _____	\$ _____
Home maintenance (Repairs and upkeep)	\$ _____	\$ _____
Food	\$ _____	\$ _____
Clothing	\$ _____	\$ _____
Laundry and dry cleaning	\$ _____	\$ _____
Medical and dental expenses	\$ _____	\$ _____
Transportation (not including car payments)	\$ _____	\$ _____
Recreation, clubs and entertainment, newspapers, magazines, etc.	\$ _____	\$ _____
Charitable contributions	\$ _____	\$ _____
Insurance (not deducted from wages or included in home mortgage payments)		
Homeowner's or renter's	\$ _____	\$ _____
Life	\$ _____	\$ _____
Health	\$ _____	\$ _____
Auto	\$ _____	\$ _____
Other _____	\$ _____	\$ _____
Taxes (not deducted from wages or included in home mortgage payments) (specify) _____		\$ _____
Installment payments		
Auto:	\$ _____	\$ _____
Credit Card: (name) _____	\$ _____	\$ _____
Department Store: (name) _____	\$ _____	\$ _____
Other _____	\$ _____	\$ _____

Other _____	\$ _____	\$ _____
Alimony, maintenance, and support paid to others	\$ _____	\$ _____
Payments for support of additional dependents not living at your home	\$ _____	\$ _____
Regular expenses from operation of business, profession, or farm (attach detailed statement)	\$ _____	\$ _____
Other _____	\$ _____	\$ _____
TOTAL MONTHLY EXPENSES	\$ _____	\$ _____

10. Do you expect any major changes to your monthly income or expenses during the next four months? Yes _____ No _____

If yes, describe.

11. Have you paid 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, provide the name, address, and telephone number of the attorney:

Have you promised to pay or do you anticipate 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, provide the name, address, and telephone number of the attorney:

12. Have you paid anyone other than an attorney (such as a paralegal, typing service, or another person) any money for services in connection with this case, including the completion of this form? Yes _____ No _____

If yes, how much? \$ _____

If yes, provide the name, address, and telephone number of the person or service:

13. Have you promised to pay or do you anticipate paying anyone other than an attorney (such as a paralegal, typing service, or another person) any money for services in connection with this case, including the completion of this form? Yes _____ No _____

If yes, how much? \$ _____

If yes, provide the name, address, and telephone number of the person or service:

14. How much can you pay each month toward the docket fee for your appeal.

\$ _____

15. Please provide any other information that helps to explain why you are unable to pay the docket fees for your appeal.

16. State the address of your legal residence:

Your daytime phone number:

(____)_____

Your age: _____

Years of schooling: _____

Your social security number:

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT. 28 U.S.C. § 1746, 18 U.S.C. § 1621.

Date: _____ Signature: _____

ADDENDUM TO FINANCIAL DECLARATION

**THIS ADDENDUM MUST BE COMPLETED BY ANYONE WHO IS A PRISONER AS
DEFINED BY 28 U.S.C § 1915(h)**

Prisoner Name _____

Appeal Number _____

Facility _____

**PLEASE NOTE THAT SECTIONS A AND B OF THIS PART OF THE FORM BOTH
MUST BE COMPLETED IN ORDER FOR US TO PROCESS THIS APPEAL. FAILURE
TO COMPLY MAY BE GROUNDS FOR DISMISSAL.**

Section A:

Certified Trust Fund Account Statement

I certify that the prisoner named below has had an average monthly balance of _____ for the previous six month period. Attached to this document is a certified copy of the prisoner's trust fund account statement for the past six months.

Prisoner's Name _____

Signature of Authorized Officer _____

Date _____

Section B:

Authorization

I, _____, request and authorize the agency holding me in custody
[print your name]
to send to the clerk of the United States Court of Appeals for the Tenth Circuit a certified
copy of the statement of my trust account or institutional equivalent for the past six months at
the institution where I am incarcerated. I further request and authorize the agency holding me in
custody to calculate and disburse funds from my trust account or institutional equivalent in the
amounts specified by 28 U.S.C. § 1915(b). This authorization is furnished in connection with
this appeal and I understand that the total fee is due regardless of the outcome of the case. I
understand the fee is \$105 in an appeal from a decision of a district court (payable to the clerk of
the district court) or \$100 in an original proceeding or petition for review filed in the court of
appeals (payable to the clerk of the court of appeals).

Prisoner Name (please print) _____

Signature _____

PART B

NOTICE AND INSTRUCTIONS

The court will accept a properly completed Part B of Form A-11 in lieu of a formal brief. This form is intended to guide you in presenting your appellate issues and arguments to the court. If you need more space, additional pages may be attached. A short statement of each issue presented for review should precede your argument. Citations to legal authority may also be included. This brief should fully set forth all of the arguments that you wish the court to consider in connection with this case.

New issues raised for the first time on appeal generally will not be considered. An appeal is not a retrial but rather a review of the proceedings in the district court. A copy of the completed form must be served on all opposing counsel and on all unrepresented parties and a proper certificate of service furnished to this court. A form certificate is attached.

APPELLANT/PETITIONER'S OPENING BRIEF

- 1. Statement of the Case.** (This should be a brief summary of the proceedings in the district court.)

2. Statement of Facts Relevant to the Issues Presented for Review.

3. Statement of Issues.

a. First Issue:

Argument and Authorities:

b. Second Issue:

Argument and Authorities:

4. Do you think the court should hear oral argument in this case? If so, why?

Date

Signature

Please note: If the brief exceeds 30 pages, a certificate of compliance must accompany brief. See Fed. R. App. P. 32.7(a)(7)(C)

CERTIFICATE OF SERVICE

I hereby certify that on _____ I sent a copy
[date]

of the foregoing Appellant’s Brief and Motion for Leave to Proceed on Appeal without Prepayment of Costs of Fees, to:

_____, at _____

_____, the last known address, by way of United States mail or courier.

Date Signature