APPEAL FEES AND INDIGENT STATUS

Fee Payments

Notices of appeal filed in the district court should be accompanied by a $505 fee paid to the Clerk, U.S. District Court. Fed. R. App. P. 3(e). Petitions for review and mandamus filed in the court of appeals should be accompanied by a $500 fee paid to the Clerk, U.S. Court of Appeals and may be paid by credit card. Fed. R. App. P. 15(e).

Criminal Appeals & Criminal Justice Act Status

If a party proceeded under the Criminal Justice Act in the district court and that status was never terminated, CJA status continues on appeal and no fee or further application is required. 18 U.S.C. § 3006a; Fourth Circuit Plan in Implementation of the Criminal Justice Act. Otherwise, the appellant is required to pay the district court the required $505 appeal fee upon filing of the notice of appeal.

If the fee is not paid upon filing of the notice of appeal, the court of appeals notifies appellant when a criminal appeal is docketed that the fee must be paid to the district court or a CJA 23 application must be filed in the court of appeals.

Prisoner Civil Appeals & Prison Litigation Reform Act Status

When a prisoner notes an appeal in a civil case, the court of appeals notifies the prisoner that the appeal fee must be paid in full or the prisoner must consent to payment of the fee in installments under the Prison Litigation Reform Act by filing the required forms with the court of appeals. 28 U.S.C. § 1915(b); Local Rule 24.

These procedures apply to civil appeals filed by persons detained or incarcerated after accusation of or conviction for violations of criminal law, but do not apply to appeals in 28 U.S.C. § 2241, 2254, 2255, or other cases attacking the criminal conviction.

The court of appeals assesses an initial partial filing fee of twenty percent of the greater of the average monthly deposits to the prisoner's account or the average monthly balance in the prisoner's account for the six-month period immediately preceding the filing of the notice of appeal. After payment of the initial partial fee, the custodian at the prisoner's institution must withhold twenty percent of the preceding month's income credited to the prisoner's account and forward payments from the account to the clerk of the district court each time the amount in the account exceeds $10 until the $505 fee is paid in full. 28 U.S.C. § 1915(b)(1); Local Rule 24. Collection of fees in multiple cases is simultaneous, not sequential. Bruce v. Samuels, 136 S. Ct. 627 (2016).

A prisoner will not be allowed to proceed without the full prepayment of the fee in a civil case if, on three or more prior occasions while incarcerated in any facility, the prisoner has brought an action or appeal in federal court that was dismissed on the grounds that it was frivolous, malicious, or failed to state a claim upon which relief could be granted unless the prisoner is under imminent danger of serious physical injury. 28 U.S.C. § 1915(g); Local Rule 24.

Civil Appeals & In Forma Pauperis Status

In civil appeals by non-prisoners and in appeals under 28 U.S.C. § 2241, 2254 or 2255, the standard in forma pauperis provisions of 28 U.S.C. § 1915(a) and Fed. R. App. P. 24 apply.

If the appellant proceeded in forma pauperis (or CJA) below and the district court has not withdrawn its finding of indigent status or found that the appeal is not taken in good faith, appellant's in forma pauperis status continues on appeal. 28 U.S.C. § 1915(a); Fed. R. App. P. 24(a). Otherwise, appellant must file an application to proceed in forma pauperis on appeal.

The court of appeals notifies appellant when the appeal is docketed that an application to proceed in forma pauperis must be filed in the court of appeals unless appellant has paid the fee to the district court or been granted leave to proceed in forma pauperis by the district court.

Petitions for Permission to Appeal

No fee is charged for filing a petition for permission to appeal. If permission to appeal is granted, the appellant must pay the $505 appeal fee to the district court. Fed. R. App. P. 5. For a petition for permission to take a direct appeal from the bankruptcy court, a $298 fee for is paid to the bankruptcy clerk, when the notice of appeal is filed, and an additional $207 is paid to the bankruptcy clerk if the court of appeals grants permission to appeal.

Petitions for Review of Agency Action

The petitioner must pay the $500 fee to the court of appeals when the petition for review is filed. If the fee is not paid upon filing of the petition, the court of appeals notifies the party that the fee must be paid or an application to proceed in forma pauperis must be filed with the court of appeals.

Tax Court Appeals

The appellant must pay the $500 appeal fee to the U.S. Tax Court upon filing of the notice of appeal. If the fee is not paid upon filing of the notice, the court of appeals notifies the party that the fee must be paid to the tax court or an application to proceed in forma pauperis must be filed with the court of appeals.

Petitions for Mandamus, Prohibition & Extraordinary Relief

The petitioner must pay the $500 fee to the court of appeals when the petition for mandamus, prohibition, habeas corpus, or other extraordinary relief is filed. If the fee is not paid upon filing of the petition, the court of appeals notifies the petitioner that the fee must be paid or an application to proceed in forma pauperis must be filed with the court of appeals.

Prisoner Petitions for Mandamus, Prohibition & Extraordinary Relief

Prisoners bringing mandamus or other extraordinary writ petitions are required to pay the $500 fee to the court of appeals when the petition is filed or apply to pay the fee in installments under the Prison Litigation Reform Act, 28 U.S.C. § 1915(b). The PLRA procedures apply to petitions filed by persons detained or incarcerated after accusation of or conviction for violations of criminal law, but do not apply to petitions relating to criminal cases or to 28 U.S.C. § 2241, 2254, or 2255 cases.

Motions for Authorization to File Successive Habeas Corpus Applications

No fee is charged for filing a motion for authorization under 28 U.S.C. § 2244 to file a successive 28 U.S.C. § 2254 or 2255 application.

Related Links

- Rule 3. Appeal as of Right - How Taken (with Local Rules)
- Rule 24. Proceeding in Forma Pauperis (with Local Rule)
- Court Forms & Fees
- Fee Schedule
- Pay Fees by Credit Card