

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY

ADMINISTRATIVE ORDER NO. 7.102-3/18

IN RE: PRISONER LITIGATION

Filings by prisoners are frequently mistitled resulting in the document being filed in the wrong division of court. Prisoners may be required to pay portions of their court costs and fees in accordance with Florida Statute § 57.081, § 57.082, and § 57.085 and an indigency review must be undertaken by the Clerk and Comptroller's office. Procedures need to be implemented to ensure timely review of the filings, assignment to the correct division of the court, and payment of required fees and costs.

NOW, THEREFORE, pursuant to the authority conferred by Florida Rule of Judicial Administration 2.215, it is **ORDERED** as follows:

A. NATURE OF FILING NOT CLEAR ON THE FACE OF THE DOCUMENT

1. When the Clerk and Comptroller receives a new civil lawsuit or correspondence from a prisoner as defined by Florida Statute § 57.085(1) (excluding clearly delineated writs and post conviction motions as addressed in Administrative Orders 7.201 and 7.301) where it is not clear on the face of the pleading or correspondence as to whether the prisoner is seeking a writ of habeas corpus, post conviction relief, collateral criminal relief, or filing a civil lawsuit unrelated to a the prisoner's substantive criminal matter, the Clerk and Comptroller's Office shall forward the matter to the Office of General Counsel, Administrative Office of the Court, to determine whether the matter seeks post conviction relief, collateral criminal relief, or other relief.
2. The Office of General Counsel will review the file and submit recommendations to the **Chief Judge** as to whether the prisoner seeks post conviction relief, collateral criminal relief, or other relief.
3. An Order will be entered by the Chief Judge, or another judge, instructing the Clerk and Comptroller's Office as to whether the matter seeks post conviction relief, seeks collateral criminal relief and is therefore exempt from Florida Statute § 57.085, or seeks other relief and therefore must comply with Florida Statute § 57.085.

B. FILING WHICH SEEKS POST CONVICTION RELIEF

1. If it is ordered that the matter seeks post conviction relief, the Clerk and Comptroller will **close the newly created civil case and file the prisoner's post conviction motion in the underlying criminal case file.**
2. The post conviction motion will be handled in accordance with Administrative Order 7.301.

C. FILING WHICH SEEKS COLLATERAL CRIMINAL RELIEF (CLERK'S DETERMINATION OF INDIGENCY UNDER § 57.081)

1. If it is ordered that the matter seeks collateral criminal relief and the Plaintiff/Petitioner has requested indigency status the Clerk and Comptroller will determine whether the **prisoner** has provided documentation as required by Florida Statute § 57.081.
 - a. If the prisoner has not furnished the appropriate documentation for the Clerk and Comptroller's Office to make a determination of indigency, the Clerk and Comptroller will forward to the prisoner the applicable indigency forms attached to this Administrative Order as **Exhibit 1.**
 - b. The Clerk and Comptroller will determine whether the Plaintiff/Petitioner is indigent and must submit to a payment plan pursuant to Florida Statutes §§ 57.081 and 57.082. Any document that may have been provided by the Plaintiff/Petitioner pursuant to § 57.085 will be considered in the Clerk and Comptroller's determination under § 57.081 and § 57.082.
2. **If the prisoner initiates a case that will be assigned to a civil division, the following applies:**
 - a. The Clerk and Comptroller's Office will also conduct a preliminary screening to the best of its ability to determine whether the Plaintiff/Petitioner has any other matters seeking collateral criminal relief pending in the Fifteenth Judicial Circuit.
 - b. If another proceeding seeking collateral criminal relief is pending, the Clerk and Comptroller's office shall assign the new litigation a civil case number and assign it to the civil judge assigned to the file with the lowest pending case number.
 - c. If no other proceeding seeking collateral criminal relief is pending, the Clerk and Comptroller's office shall assign the new litigation a case number and randomly assign the case to a civil judge.

- d. A representative of the Clerk and Comptroller's Office will immediately **notify the assigned judge of the new litigation.**

D. FILING WHICH SEEKS OTHER RELIEF (CLERK'S DETERMINATION OF INDIGENCY UNDER § 57.085)

1. When a prisoner intervenes in or initiates a judicial proceeding other than a collateral criminal proceeding, and seeks to defer the prepayment of court costs and fees because of indigence, a determination of indigency is to be completed by the Clerk.

- a. The Clerk and Comptroller will determine whether the **prisoner** is indigent and has provided documentation as required by Florida Statute § 57.085.
 - 1) If the prisoner has not furnished the appropriate documentation for the Clerk and Comptroller's Office to make a determination of indigency, the Clerk and Comptroller will forward to the prisoner the applicable indigency forms attached to this Administrative Order as **Exhibit 2.**
 - 2) If under Florida Statute § 57.085, the affidavit states that the prisoner has twice in the preceding three years has been adjudicated indigent, the Clerk and Comptroller will forward the matter to the assigned judge **to determine whether the prisoner should be granted leave to seek a** determination of indigency pursuant to § 57.085.
- b. **If the prisoner initiates a case that will be assigned to a civil division, the following applies:**
 - 1) The Clerk and Comptroller's Office will also conduct a preliminary screening to the best of its ability to determine whether the Plaintiff/Petitioner has any other civil matters (non family) pending in the circuit or county court.
 - 2) If another civil proceeding is pending in the same court (circuit or county), the Clerk and Comptroller's office shall assign the new litigation a civil case number and assign it to the civil judge assigned to the file with the lowest pending case number.
 - 3) If no other proceeding seeking civil relief is pending, the Clerk and Comptroller's office shall assign the new litigation a case number and randomly assign the case to a civil judge.

2. Orders to Pay Costs:

a. This administrative order shall serve as the order required by Florida Statute §57.085(4) to require the prisoner to make an initial partial payment of costs and fees prior to service of process. After reviewing the preceding 6 months of the prisoner's trust account records, or less if imprisoned for a shorter period of time, the clerk is hereby directed to assess an initial partial payment, of at least 20% of the average monthly balance as follows:

- 1) If the average balance is \$10.00 or less, no initial partial payment is required.
- 2) If the average balance is greater than \$10.00 but not more than \$25.00, the initial partial payment due is \$5.00.
- 3) If the average balance is greater than \$25.00 but not more than \$50.00, the initial partial payment due is \$15.00.
- 4) If the average balance is greater than \$50.00 but not more than \$75.00, the initial partial payment due is \$30.00.
- 5) If the average balance is greater than \$75.00, the initial partial payment due is \$50.00.

b. This administrative order shall serve as the order required by Florida Statute §57.085(5) to require the prisoner to make monthly payments of no less than 20% of the balance of the prisoner's trust account as payment of court costs and fees. When the Clerk has found the prisoner to be indigent under § 57.085, the Clerk is hereby directed to forward to the Department of Corrections or the local detention facility a memorandum setting forth the prisoner's name and case number and the amount of the outstanding court costs and fees, along with a copy of this Administrative Order, for the imposition of the lien as required by Florida Statute § 57.085(5). As fees and costs continue to accrue, the Clerk will update the Department of Corrections or the detention facility with the current amount due and owing.

3. Review of Legal Sufficiency

a. The Clerk and Comptroller's Office will immediately notify the assigned judge of the new litigation following receipt of the partial payment as set forth in paragraph D 2 a above, or, if no partial payment is due, following the determination of indigency as set forth in D 1 above.

- b. The assigned judge, in accordance with Florida Statute § 57.085(6), will review the claim(s) to determine whether **it** is legally sufficient to state a cause of action for which the court has jurisdiction and may grant relief.

29 **DONE AND SIGNED**, in Chambers, at West Palm Beach, Palm Beach County, Florida this day of March, 2018.



The image shows a handwritten signature in black ink that reads "Krista Marx". The signature is written in a cursive style. Below the signature, there is a faint, light-colored watermark or stamp that appears to say "JUSTICE" and "CLERK OF COURT".

Krista Marx
Chief Judge

supersedes admin. order 7.102-5/12

EXHIBIT "1"

IN THE CIRCUIT/COUNTY COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

CASE NO.: _____

Plaintiff / Petitioner or In the Interest Of

vs.

Defendant / Respondent

APPLICATION FOR DETERMINATION OF CIVIL INDIGENT STATUS PURSUANT TO § 57.081

Notice to Applicant: If you qualify for civil indigence you must enroll in the Clerk's Office payment plan and pay a one-time administrative fee of \$25.00. This fee shall not be charged for Dependency or Chapter 39 Termination of Parental Rights actions.

1. I have _____ dependents. (Include only those persons you list on your U.S. income tax return)

Are you married? ___ Yes ___ No

Does your spouse work? ___ Yes ___ No Annual Spouse Income? \$ _____.

2. I have a net income of \$ _____ paid () weekly () every two weeks () semi-monthly () monthly () yearly () other _____.

(Net income is your total income including salary, wages, bonuses, commissions, allowances, overtime, tips and similar payments, minus deductions required by law and other court-ordered payments such as child support.)

3. I have other income paid () weekly () every two weeks () semi-monthly () monthly () yearly () other _____.

(check "Yes" and fill in the amount if you have this kind of income, otherwise check "No")

Second Job..... No _____ Yes _____ \$ _____

Veterans' benefits..... No _____ Yes _____ \$ _____

Workers Compensation No _____ Yes _____ \$ _____

Social Security benefits

For you..... No _____ Yes _____ \$ _____

For your child(ren)..... No _____ Yes _____ \$ _____

Income from absent family members..... No _____ Yes _____ \$ _____

Stocks/bonds..... No _____ Yes _____ \$ _____

Unemployment compensation..... No _____ Yes _____ \$ _____

Rental Income..... No _____ Yes _____ \$ _____

Union Payments..... No _____ Yes _____ \$ _____

CASE NO. _____

CLERK'S DETERMINATION

Based on the information in this Application, I have determined the applicant to be

_____ Indigent

_____ Not Indigent,

according to s. 57.082, F.S.

Dated this ___ day of _____, 20 ____.

Clerk of the Circuit Court

By:

This form was completed with the assistance of:

Clerk/Deputy Clerk/Other authorized person.

APPLICANTS FOUND NOT TO BE INDIGENT MAY SEEK REVIEW BY THE CHIEF JUDGE.

THERE IS NO FEE FOR THIS REVIEW.

Sign here if you want the Chief Judge to review the clerk's decision.

Signature

Printed Name

Date

EXHIBIT "2"

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

CASE NUMBER: _____

v.

AFFIDAVIT OF INDIGENCY PURSUANT TO §57.085

STATE OF FLORIDA

COUNTY OF _____

Before me personally appeared {Name} _____

Who after being sworn states:

1. My full name is: _____

and I am also known by the following alias(es) and nicknames:

2. I am currently incarcerated at {Name of facility}:

Located in {city and state}:

My prisoner identification number is:

My full mailing address is:

3. I was found guilty or plead guilty/no contest to the following crime(s) (list Courts, case numbers, offenses, date of convictions and sentences imposed):

4. The nature and amount of my current income are as follows: (list the source, entitlement and amount of any income you now receive):

5. I own the following real property (land) (describe the nature and location of real property):

6. I own the following tangible and intangible property worth more than \$100 (describe any property or possessions you own worth more than \$100 and list an approximate value for each):

7. I am in possession of cash in the amount of: _____

8. The balances of all checking, savings and money-market accounts held by me are as follows (list the financial institution and the current balance for each account):

9. The names and ages of my dependants are as follows:

10. I owe the following debts (include the names of all creditors and the amount owed to each):

11. My monthly expenses are as follows (list all monthly expenses and the amount of each):

I have been adjudicated indigent twice in the preceding 3 years, under F.S. 57.085 (Fla. Stat.) certified indigent under F.S. 57.081 (Fla. Stat.) or authorized to proceed as an indigent under 28 U.S.C. 1915 by a federal court on the following occasions {list each Court, case name and number, and date of adjudication, certification or authorization to proceed as an indigent. **Do NOT include**

any criminal prosecutions in which you were adjudicated indigent:

- Yes No

List each Court, case name and number, and date of adjudication, certification or authorization to proceed as an indigent. **Do NOT list any criminal prosecutions in which you were adjudicated indigent:**

THE PRISONER MUST ATTACH TO THIS AFFIDAVIT A PHOTOCOPY OF THE PRISONER'S TRUST ACCOUNT RECORDS FOR THE PRECEDING SIX (6) MONTHS OR FOR THE LENGTH OF THE PRISONER'S INCARCERATION, WHICHEVER PERIOD IS SHORTER.

I am presently unable to pay court costs and fees. Under penalty of perjury, I swear or affirm that all statements in this affidavit are true and complete.

DATED: _____

Signature of Prisoner: _____

Printed Name of Prisoner: _____

Address: _____

City, State, Zip _____

STATE OF FLORIDA
COUNTY OF {name} _____

Sworn to (or affirmed) and subscribed before me on

{date} _____, 20____, by

{name} _____

NOTARY PUBLIC – STATE OF FLORIDA {Print, type or stamp commissioned name of notary}

_____ Personally known _____ Produced identification

Type of identification produced _____

CASE NO.: _____

CLERK'S DETERMINATION OF INDIGENT STATUS

Based on the information in the affidavit for indigent status, the above named applicant

_____ is determined to be:
name of applicant

_____ indigent

_____ not indigent

according to 200% of the Federal Poverty Guidelines.

Date: _____

Signature: _____
Deputy Clerk