

2.2.03 | 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 \$605 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.

(4th Circuit Court of Appeals // December 2023)

