

**IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT  
IN AND FOR HARDEE, HIGHLANDS AND POLK COUNTIES, FLORIDA**

ADMINISTRATIVE ORDER NO. 3-23.2

**IN RE: PRISONER LAWSUITS AND FINDINGS OF INDIGENCY**

WHEREAS it is necessary to assure uniformity in responding to the dictates of Chapter 96-106, the Clerks of the Court, upon the attempted filing of a civil lawsuit in the Circuit Court or in any of the counties of this circuit by any prisoner, with the exceptions noted in paragraphs 8 and 9, shall:

1. If not included with the pleadings, forward to the prisoner a copy of the attached Affidavit of Indigence by Prisoner@ and a copy of Sections 57.085, 944.279, and 944.28, Florida Statutes (1996).
2. Upon receipt of the completed Affidavit of Indigence and copies of the prisoner's trust account activity for the previous six months or the term of incarceration, whichever is shorter [See Section 57.085(2), Florida Statutes], forward same with the Complaint or Petition to the Circuit Civil Administrative Judge (Administrative Judge@).
3. The Administrative Judge will, pursuant to Section 57.085, Florida Statutes, review the affidavit and find the prisoner indigent or partially indigent or not indigent and instruct the prisoner as to what part, if any, of the court costs and fees the prisoner will be required to pay. If the prisoner is to pay any court costs or fees, the instructions will include when, and in what amount, payments are due.
4. When the Court adjudicates a prisoner indigent but concludes that the prisoner is able to pay part of the court costs and fees required by law, the Court shall order the prisoner to make, prior to service of process, an initial partial payment of those court costs and fees. The initial partial payment must total at least 20 percent of the average balance of the prisoner's trust account for the preceding 6 months or for the length of the prisoner's incarceration, whichever period is shorter.
5. When the Court adjudicates a prisoner indigent, the Court shall order the prisoner to make monthly payments of no less than 20 percent of the balance of the prisoner's trust account as payment of the prisoner's costs and fees. When a Court orders such payment, the Department of Corrections or the local detention facility shall place a lien on the inmate's trust account for the full amount of the court costs and fees, and shall withdraw money maintained in that trust account and forward the money, when the balance exceeds \$10, to the Clerk of the Court until the prisoner's court costs and fees are paid in full.
6. The pleadings shall then be returned to the clerk. If indigency is not found, the filings are to be kept by the clerk for the amount of time in which a notice of appeal may be filed. If the fee or partial fee is received, the Clerk shall file the matter and assign and forward it to the next judge of the appropriate court, who may or may not be the Administrative Judge. If a notice of appeal is filed, normal procedures would apply. If neither the required fee nor a notice of appeal is filed, the Clerk shall return the filings to the prisoner after 30 days.
7. The assigned judge will then decide whether or not the prisoner may intervene in or initiate any judicial proceeding by determining whether the prisoner has stated a legally sufficient cause of action over which the Court has jurisdiction and may grant relief. The Court shall dismiss in whole or part any claim that fails to be legally sufficient.
8. Upon receipt of a Petition for Writ of Habeas Corpus, the clerk shall file same and forward it immediately to the attention of the assigned judge.
9. Upon receipt of a Petition for Writ of Mandamus, the clerk shall forward same to the Chief Judge who will determine if the matter is a collateral criminal proceeding or not. If it is not, the petition will be returned to the clerk and the procedures as set for in paragraphs 1 through 7 of this order shall apply. If the matter is determined to be a collateral criminal proceeding, the procedures as set forth in Section 57.081, Florida Statutes, shall apply. [See *Schmidt v. Crusoe*, 28 Fla. L. Weekly S367 (Fla. May 1, 2003) and *Hughes v. Weiss*, 28 Fla. L. Weekly D2669 (Fla. 2d DCA, November 19, 2003) and the clerk shall file same and forward it immediately to the attention of the chief judge.
10. This order shall have effect upon entry. It shall cease to have effect July 1, 2004 at which time the clerk shall comply with Section 5.085, Florida Statutes, as amended.

Administrative Order Number 3-23.1 is hereby SUPERCEDED.

DONE AND ORDERED on this 22<sup>nd</sup> day of January, 2004.

RONALD A. HERRING, Chief Judge