

RULE 9.430 | PROCEEDINGS BY INDIGENTS

(a) Appeals. A party who has the right to seek review by appeal without payment of costs must, unless the court directs otherwise, file a signed application for determination of indigent status with the clerk of the lower tribunal, using an application form approved by the supreme court for use by clerks of the lower tribunal. The clerk of the lower tribunal's reasons for denying the application must be stated in writing and are reviewable by the lower tribunal. Review of decisions by the lower tribunal will be by motion filed in the court.

(b) Appeals and Discretionary Reviews in the Supreme Court. The supreme court may, in its discretion, presume that any party who has been declared indigent for purposes of proceedings by the lower tribunal remains indigent, in the absence of evidence to the contrary. Any party not previously declared indigent who seeks review by appeal or discretionary review without the payment of costs may, unless the supreme court directs otherwise, file with the supreme court a motion to proceed in forma pauperis. If the motion is granted, the party may proceed without further application to the supreme court.

(c) Original Proceedings. A party who seeks review by an original proceeding under rule 9.100 without the payment of costs must, unless the court directs otherwise, file with the court a motion to proceed in forma pauperis. If the motion is granted, the party may proceed without further application to the court.

(d) Incarcerated Parties.

(1) Presumptions. In the absence of evidence to the contrary, a court may, in its discretion, presume that:

(A) assertions in an application for determination of indigent status filed by an incarcerated party under this rule are true; and

(B) in cases involving criminal or collateral criminal proceedings, an incarcerated party who has been declared indigent for purposes of proceedings in the lower tribunal remains indigent.



(2) Non-Criminal Proceedings. Except in cases involving criminal or collateral proceedings, an application for determination of indigent status filed under this rule by a person who has been convicted of a crime and is incarcerated for that crime or who is being held in custody pending extradition or sentencing must contain substantially the same information as required by an application form approved by the supreme court for use by clerks of the lower tribunal. The determination of whether the case involves an appeal from an original criminal or collateral proceeding depends on the substance of the issues raised and not on the form or title of the petition or complaint. In these non-criminal cases, the clerk of the lower tribunal must, to the extent required by general law, require the party to make a partial prepayment of court costs or fees and to make continued partial payments until the full amount is paid.

(e) Parties in Juvenile Dependency and Termination of Parental Rights Cases; Presumption. In cases involving dependency or termination of parental rights, a court may, in its discretion, presume that any party who has been declared indigent for purposes of proceedings by the lower tribunal remains indigent, in the absence of evidence to the contrary.

Committee Notes

1977 Adoption. This rule governs the manner in which an indigent may proceed with an appeal without payment of fees or costs and without bond. Adverse rulings by the lower tribunal must state in writing the reasons for denial. Provision is made for review by motion. Such motion may be made without the filing of fees as long as a notice has been filed, the filing of fees not being jurisdictional. This rule is not intended to expand the rights of indigents to proceed with an appeal without payment of fees or costs. The existence of such rights is a matter governed by substantive law.

2008 Amendment. Subdivision (b) was created to differentiate the treatment of original proceedings from appeals under this rule. Each subdivision was further amended to comply with statutory amendments to section 27.52, Florida Statutes, the legislature's enactment of section 57.082, Florida Statutes, and the Florida Supreme Court's opinion in *In re Approval of Application for Determination of Indigent Status Forms for Use by Clerks*, 910 So. 2d 194 (Fla. 2005).

