

APPLICATION AND AFFIDAVIT TO PROCEED ON APPEAL IN FORMA PAUPERIS

Rule 2 of the RST Rules of Appellate Procedure requires that an Appellant (the party bringing the appeal) to post an appellate bond when the Appellant files its Notice of Appeal. Your Notice of Appeal won't be filed until you either post the appeal bond or ask for a waiver. Remember you must file your appeal within 30 days of notice of entry of judgment in a civil case and within 15 days in a criminal case.

In a civil case (not a criminal case) the appellate bond is set at \$50.00 and the Appellant is required to file a statement of financial responsibility equal to the amount of the judgment in Tribal Court. If you cannot file the statement of financial responsibility you will have to pay cash or surety in the amount of the Tribal Court Judgment unless the appellate bond is waived. If there is no money judgment the bond is just the \$50.00. If there is a money judgment you may have to pay the \$50.00 bond plus the amount of the money judgment.

In a criminal case the appellate bond is set at the amount of the set in the Tribal Court bond schedule for each offense being appealed.

If you had the filing fee's waived in Tribal Court you will be allowed to proceed In Forma Pauperis (meaning the appellate bond and any fees will be waived) on your appeal. Attach a copy of Order Waiving Filing Fees issued by the Tribal Court to your Notice of Appeal.

Use the attached Application and Affidavit to Proceed on Appeal In Forma Pauperis form if you cannot pay the appellate bond and fees to file with your Notice of Appeal. Rule 2 allows for waiver of the appellate bond and fees if you are indigent. Rule 2 doesn't define what indigent means but if you can show posting an appellate bond will cause a financial hardship the Supreme Court may waive the bond requirement. You must be completely honest about any and all information you provide on the application as it is an affidavit where you swear all the answers are truthful. If you give false information you could face perjury charges. You must sign the application and affidavit in the presence of a notary public as you are swearing to tell the truth in the application. If the Supreme Court denies your application, you will have to post an appellate bond.

INSTRUCTIONS FOR FILLING OUT THE FORM. To fill out the attached form follow these instructions. The numbers to each instruction below is the number on the blank line on the form where the information for that number needs to be inserted on the form.

Instructions for filling out the application and affidavit:

- (1) on this line insert the name of the party who was the plaintiff in the case at the trial court level, it will either be you or the other party. Look at a case caption of the trial court pleadings to determine who the plaintiff is
- (2) on this line insert Appellant if the plaintiff is the party that filed the appeal or insert Appellee if the defendant is the party that filed the appeal
- (3) on this line insert the name of the party who was the defendant in the case at the trial court level, it will either be you or the other party. Look at a case caption of the trial court pleadings to

determine who the defendant is

(4) on this line insert Appellant if the defendant is the party that filed the appeal or insert Appellee if the plaintiff is the party that filed the appeal

Note: You must sign the application and affidavit in the presence of a notary public. Most Clerks of the Court are notaries.

(5) on this line sign the application and affidavit

SUPREME COURT
OF THE
ROSEBUD SIOUX TRIBE

<p>(1) _____ _____, Plaintiff and (2) _____</p> <p>v.</p> <p>(3) _____ _____, Defendant and (4) _____</p>	<p>SC# _____</p> <p>APPLICATION AND AFFIDAVIT TO PROCEED ON APPEAL IN FORMA PAUPERIS</p>
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Comes now, the above-named Appellant, first being duly sworn, depose and swear in support of my application to proceed on my appeal without being required to pay the bond, prepay fees, costs or give security, I state that I am unable to pay the costs or give security for the appeal and that I believe I am indigent and unable to pay the fees and costs.

I further swear and aver that my answers and responses to the questions and instructions below related to my ability to pay are true and correct.

1. Are you presently employed: _____ Yes _____ No

A. If yes, state the name, address and phone number of your employer: _____

State your gross employment income per month: \$ _____

B. If no, give date last date of employment: _____

2. Are you the head of your household: _____ Yes _____ No

A. If yes, number of persons who are dependent on you for support: _____

B. If no, name of person who is head of household: _____

3. In the last 12 months have you received any income from:

Employment Income: _____ Yes _____ No Total Amount \$ _____

Lease Payments: _____ Yes _____ No Total Amount \$ _____

Rental Payments: _____ Yes _____ No Total Amount \$ _____

Dividend Interests: _____ Yes _____ No Total Amount \$ _____

Worker's Compensation Benefits: Yes No Total Amount \$ _____
 Social Security Disability Benefits: Yes No Total Amount \$ _____
 Supplemental Security Income (SSI): Yes No Total Amount \$ _____
 Veteran's Benefits: Yes No Total Amount \$ _____
 Unemployment Benefits: Yes No Total Amount \$ _____
 Retirement Benefits: Yes No Total Amount \$ _____
 Public and General Welfare Benefits: Yes No Total Amount \$ _____
 Sale of any Real or Personal Property: Yes No Total Amount \$ _____
 Any other sources of income: Yes No Total Amount \$ _____

Total income from the last year (add all total from above): Total Amount \$ _____

4. Do you have any of the following:

Checking Account: Yes No Current Balance \$ _____
 Savings Account: Yes No Current Balance \$ _____
 Cash on Hand: Yes No Total Amount \$ _____

Name of Bank(s) or Institutions where account is: _____

5. Do you own any of the following:

Real Estate: Yes No Approximate Value \$ _____
 Stocks: Yes No Approximate Value \$ _____
 Bonds: Yes No Approximate Value \$ _____
 Notes: Yes No Approximate Value \$ _____
 Automobiles: Yes No Approximate Value \$ _____
 Other property (excluding ordinary Household furnishings and clothes) Yes No Approximate Value \$ _____

I understand that any false statement or answer to any questions in this affidavit subject me to the penalties of perjury. I hereby give my consent to the Supreme Court of the Rosebud Sioux Tribe to have my income verified by my employer or other sources and to inquire with my bank, if any to verify my account. I further understand that I am required to notify the Supreme Court of the Rosebud Sioux Tribe of any financial changes affecting me that may occur during the pendency of this appeal.

(5) _____

Subscribed and sworn before me on this _____ day of _____, _____.

SEAL

Notary Public

My Commission Expires: _____