

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH
DAKOTA, SOUTHERN DIVISION

Chaske Rockboy v. Charles Mix County; Randy Thaler, Officially
and Individually; Derik Rolston, Officially and Individually; Jan
Budavich, Officially and Individually

Rockboy · No. 4:24-CV-04093-ECS · Decided March 16, 2026

SUMMARY

The United States District Court for the District of South Dakota grants Chaske Rockboy leave to proceed in forma pauperis on appeal. Because Rockboy was incarcerated when he filed his notice of appeal, the court applies the Prison Litigation Reform Act and assesses an initial partial appellate filing fee of \$156.73, payable by April 15, 2026. The court directs the institution holding Rockboy to make monthly payments toward the \$605 appellate filing fee.

CASE DETAILS

COURT	United States District Court for the District of South Dakota, Southern Division
WRITING FOR THE COURT	Eric C. Schulte
JURISDICTION	United States District Court for the District of South Dakota, Southern Division
DECIDED	March 16, 2026
DOCKET	4:24-CV-04093-ECS
DISPOSITION	other
PROCEDURAL POSTURE	After granting summary judgment to defendants in a civil-rights action, the district court considered plaintiff's motion to proceed in forma pauperis on appeal under the Prison Litigation Reform Act.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Chaske Rockboy v. Charles Mix County, Randy Thaler, Derik Rolston, Jan Budavich

TOPICS

- appellate procedure
- prisoners rights
- costs
- civil rights

PRACTICE AREAS

civil rights

federal appellate procedure

prisoner litigation

QUESTIONS PRESENTED

1. Whether Rockboy qualified as a prisoner for purposes of determining his eligibility to proceed in forma pauperis on appeal because he was incarcerated when he filed his notice of appeal.
2. Whether the court should grant in forma pauperis status on appeal and assess an initial partial filing fee under the Prison Litigation Reform Act.
3. Whether the initial partial appellate filing fee should be calculated as 20 percent of the greater of the prisoner's average monthly deposits or average monthly balance during the relevant six-month period.

HOLDINGS

1. A litigant's prisoner status for purposes of the Prison Litigation Reform Act is determined when the civil action or appeal is filed; because Rockboy was incarcerated when he filed his notice of appeal, he was a prisoner for purposes of the appellate in forma pauperis determination.
2. Rockboy's motion to proceed in forma pauperis on appeal was granted because the appeal appeared to be taken in good faith and he submitted the required certified prisoner trust-account report.
3. A prisoner proceeding in forma pauperis on appeal must pay an initial partial filing fee equal to 20 percent of the greater of the average monthly deposits or average monthly balance in the prisoner's account during the applicable six-month period, unless the prisoner has no assets or means to pay.

KEY QUOTATIONS

“Congress’s definition of ‘prisoner’ as one who is incarcerated necessarily refers to the individual’s status at the time the civil action is filed or appealed.”

“when an inmate seeks pauper status, the only issue is whether the inmate pays the entire fee at the initiation of the proceeding or over a period of time under an installment plan.”

“prisoners who appeal judgments in civil cases must sooner or later pay the appellate filing fees in full.”

FACTUAL BACKGROUND

Rockboy brought a civil-rights action under 42 U.S.C. § 1983 against Charles Mix County and three individual defendants. He was not incarcerated when he filed the complaint and initially paid the full filing fee, but he became incarcerated during the case and was housed at Mike Durfee State Prison when he appealed. His prisoner trust-account report showed average monthly deposits of \$160.00 and an average monthly balance of \$783.67.

PROCEDURAL HISTORY

Rockboy filed a 42 U.S.C. § 1983 complaint after paying the full filing fee and while not incarcerated. During the litigation he became incarcerated. The court granted defendants' motion for summary judgment, denied or resolved Rockboy's partial-summary-judgment motion, and entered judgment partly with prejudice and partly

without prejudice. After Rockboy filed a notice of appeal, he moved to proceed in forma pauperis and submitted a certified prisoner trust-account report. The district court granted the motion and assessed an initial partial appellate filing fee of \$156.73.

DISPOSITION

other

CASES CITED

- Williams v. Scalleta, 11 F. App'x 677, 678 (8th Cir. 2001) (per curiam)
- Henderson v. Norris, 129 F.3d 481, 483, 485 (8th Cir. 1997) (per curiam)
- In re Tyler, 110 F.3d 528, 529-30 (8th Cir. 1997)
- McGore v. Wigglesworth, 114 F.3d 601, 604 (6th Cir. 1997)

OPINION

Rockboy

PER CURIAM.

UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

SOUTHERN DIVISION

CHASKE ROCKBOY, 4:24-CV-04093-ECS

Plaintiff,

ORDER GRANTING PLAINTIFF'S

vs. MOTION FOR LEAVE TO PROCEED IN

FORMA PAUPERIS ON APPEAL AND

CHARLES MIX COUNTY; RANDY REQUIRING AN INITIAL PARTIAL

THALER, Officially and Individually; DERIK FILING FEE ROLSTON, Officially and Individually; JAN BUDAVICH, Officially and Individually, Defendants. Plaintiff Chaske Rockboy filed a complaint alleging violations of his civil rights under 42 U.S.C. § 1983. Doc. 1. At the time Rockboy filed his complaint, he paid the full filing fee and was not incarcerated. Id. 1. During the pendency of this case, Rockboy has become incarcerated and is currently housed at the Mike Durfee State Prison. Doc. 61. Defendants moved for summary judgment, and Rockboy moved for partial summary judgment. Docs. 21,

33. This Court granted summary judgment in favor of Defendants and against Rockboy and entered judgment in part with prejudice and in part without prejudice. Docs. 63, 64. Rockboy filed a notice of appeal. Doc. 65. He moves for leave to proceed in forma pauperis on appeal, Doc. 66, and filed a certified copy of his prisoner trust account report, Doc. 67. Under 28 U.S.C. § 1915(a) (2), [a] prisoner seeking to bring a civil action or appeal a judgment or proceeding without prepayment of fees or security therefore ... shall submit a certified copy of the trust fund account

statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint or notice of appeal, obtained from the appropriate official of each prison at which the prisoner is or was confined. The Eighth Circuit has noted that “[i]n [its] view, Congress’s definition of ‘prisoner’ as one who is incarcerated necessarily refers to the individual’s status at the time the civil action is filed or appealed.” *Williams v. Scalleta*, 11 F. App’x 677, 678 (8th Cir. 2001) (per curiam). Despite Rockboy’s status as a non-prisoner at the time the civil action was initiated, he is a prisoner at the time his notice of appeal was filed, and thus, is a prisoner for determining his motion for leave to proceed in forma pauperis on appeal. Under the Prison Litigation Reform Act (PLRA), a prisoner who “files an appeal in forma pauperis . . . [is] required to pay the full amount of a filing fee.” 28 U.S.C. § 1915(b)(1). This obligation arises “the moment the prisoner . . . files an appeal.” *Henderson v. Norris*, 129 F.3d 481, 483 (8th Cir. 1997) (per curiam) (quoting *In re Tyler*, 110 F.3d 528, 529-30 (8th Cir. 1997)). “[W]hen an inmate seeks pauper status, the only issue is whether the inmate pays the entire fee at the initiation of the proceeding or over a period of time under an installment plan.” *Id.* (quoting *McGore v. Wigglesworth*, 114 F.3d 601, 604 (6th Cir. 1997)). “[P]risoners who appeal judgments in civil cases must sooner or later pay the appellate filing fees in full.” *Id.* (footnote and citation omitted). In *Henderson*, the Eighth Circuit set forth “the procedure to be used to assess, calculate, and collect” appellate filing fees in compliance with the PLRA. 129 F.3d at 483. First, the court must determine whether the appeal is taken in good faith. *Id.* at 485 (citing 28 U.S.C. § 1915(a)@) and Fed. R. App. P. 24(a)). Then, so long as the prisoner has provided the court with a certified copy of his prisoner trust account, the court must “calculate the initial appellate partial filing fee as provided by § 1915(b)(1), or determine that the provisions of § 1915(b)(4) apply.” *Id.* The initial partial filing fee must be 20 percent of the greater of: (A) the average monthly deposits to the prisoner’s account; or (B) the average monthly balance in the prisoner’s account for the 6-month period immediately preceding the filing of the complaint or notice of appeal. 28 U.S.C. § 1915(b)(1). Nonetheless, no prisoner will be “prohibited from . . . appealing a civil or criminal judgment for the reason that the prisoner has no assets and no means by which to pay the initial partial filing fee.” § 1915(b)(4). It appears that Rockboy’s appeal is taken in good faith. His most recent prisoner trust □ account report shows average monthly deposits of \$160.00 and an average monthly balance of \$783.67. Doc. 67 at 1. Rockboy’s motion for leave to proceed in forma pauperis on appeal, Doc. 66, is granted, and Rockboy must pay an initial partial filing fee of \$156.73 (20 percent of his average monthly balance). Rockboy must pay the initial partial filing fee of \$156.73 by April 15, 2026. Accordingly, it is ORDERED that Rockboy’s motion for leave to proceed in forma pauperis on appeal, Doc. 66, is granted. Rockboy must make a payment of \$156.73 by April 15, 2026, made payable to the Clerk, U.S. District Court. It is further ORDERED that the Clerk of Court will send a copy of this order to the appropriate financial official at Rockboy’s institution. It is finally ORDERED that the institution having custody of Rockboy is directed that whenever the amount in Rockboy’s trust account, exclusive of funds available to him

in his frozen account, exceeds \$10.00, monthly payments that equal 20 percent of the funds credited the preceding month to Rockboy's trust account shall be forwarded to the U.S. District Court Clerk's Office under 28 U.S.C. § ee until the \$605 appellate filing fee is paid in full. DATED this @) day of March, 2026. BY THE <OURT:

C C. SCHULTE

United States District Judge