

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA

FILED

ORDER SETTING PROCEDURES FOR  
RULING ON MOTIONS TO PROCEED  
IN FORMA PAUPERIS IN HABEAS  
CORPUS CASES (28 U.S.C. § 2254)

SEP 29 1981

J. RICH LEONARD, CLERK  
U. S. DISTRICT COURT,  
E. DIST. NO. CAR.

The following procedures are to be employed by the Clerk in petitions for writs of habeas corpus in which petitioner moves to proceed in forma pauperis:

1. If the petitioner in his financial affidavit discloses that he has more than \$25.00 in his trust fund account at the time the affidavit was executed, the motion to proceed in forma pauperis will be denied and the petitioner required to pay the \$5.00 filing fee.

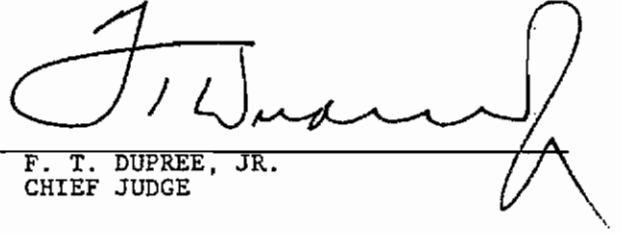
2. If petitioner has less than \$25.00 in his trust fund account, the Clerk shall request a copy of the petitioner's inmate trust fund for the preceding six months prior to submitting the motion to the court's ruling. If a review of the inmate trust fund account discloses that 15% of the receipts for the six months preceding filing is more than \$5.00, the Clerk will notify the petitioner that his motion to proceed in forma pauperis will be denied unless he demonstrates with particularity, within 20 days, that he lacks access to sufficient funds to pay the \$5.00 filing fee. The Clerk shall provide the petitioner with a copy of the trust fund, and the petitioner's explanation should include a detailed statement of the source of the funds received and the expenditures noted. The Clerk should also notify petitioner that failure to respond to the notice will result in a denial of a motion to proceed in forma pauperis.

3. At the end of the 20-day response period, the motion to proceed in forma pauperis in cases in this category should be forwarded to the appropriate magistrate or judge in accordance with the court's assignment procedures. In the event that the petitioner neither has \$25.00 in his trust fund account nor has assets during the preceding six months of which 15% is more than \$5.00, the Clerk should forward the motion to proceed in forma

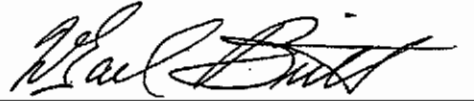
pauperis immediately to the appropriate judge or magistrate.

SO ORDERED.

This 24<sup>th</sup> day of September, 1981..



F. T. DUPREE, JR.  
CHIEF JUDGE



W. EARL BRITT  
UNITED STATES DISTRICT JUDGE

I certify the foregoing to be a true  
and correct copy of the original.

J. Rich Leonard, Clerk  
United States District Court  
Eastern District of North Carolina

By Dorothy McWhorter  
Deputy Clerk