



The Commonwealth of Massachusetts
Committee for Public Counsel Services
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CHIEF COUNSEL

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ACTING DEPUTY CHIEF COUNSEL
PRIVATE COUNSEL DIVISION

Dear Correspondent:

Because you or your family retained a privately paid attorney at some stage of your case, the trial court must now declare you indigent. In other words, the court must find that you are presently without funds to pay a lawyer before CPCS can work on your case. In order to have the court declare you indigent, you must complete the enclosed forms and file them in the court where you were convicted.

1. **Cover letter to the Clerk**
2. **Motion to Be Declared Indigent, with Affidavit of Indigency**
(Attach a printout of your canteen account.)

You can mail these in to the court, or have someone bring them to the court and the clerk will take them before a judge for a ruling. Often, delivering them personally speeds up the process. **Please do not send these forms back to me.**

If the court sends you a copy of the motion with the ruling of "allowed" or "denied" written on it, mail it to me at the above address. If you do not receive notice from the court or from C.P.C.S. within 45 days of mailing the motion to the court, please contact me, and I will look into the matter. C.P.C.S. accepts collect calls on weekdays between 2:00 p.m. and 4:00 p.m.

Very truly yours,

A handwritten signature in black ink, appearing to read "E. Dembitzer", written over a horizontal line.

Elizabeth Dembitzer
Staff Counsel
Criminal Appeals Unit
Private Counsel Division

ED: mt

enc.

Clerk of Court - Criminal Business _____ [Date]

_____ [name of court]

_____ [street address]

_____ [City] [State] [Zip code]

RE: Commonwealth v. _____ [print name of defendant]
Docket No(s). _____ [print docket number or numbers]

Dear Sir/Madam:

Please find enclosed for filing the Defendant's Motion to Be Declared Indigent; with Affidavit of Indigency and Canteen Printout.

Please bring this motion to the attention of the court for action. After the court acts, please forward a copy of the motion to:

Elizabeth Dembitzer
Staff Counsel
C.P.C.S. Appeals Unit, Private Counsel Division
44 Bromfield Street
Boston, MA 02108

Thank you for your attention to this matter.

Yours Truly,

[Sign your name]

_____, pro se
[print or type your name]

[print or type your mailing address]

_____, ss.
[County]

_____ COURT
[name of court]

DOCKET NO. _____

COMMONWEALTH)

V.)

[name of defendant])
_____)

DEFENDANT'S MOTION TO BE DECLARED INDIGENT

Now comes the defendant, pro se, in the above-entitled matter and moves this Honorable Court, pursuant to M.G.L. c.211D and Supreme Judicial Court Rule 3:10 to declare the defendant indigent.

As reasons for the foregoing request, the defendant states:

- 1. The defendant is now indigent, incarcerated and without funds to hire an attorney to pursue post-conviction remedies.
- 2. A party's indigency status may be reviewed at any stage of a court proceeding if information regarding a change in financial circumstances becomes available to a probation officer or other appropriate court employee, through the court's verification system, or from some other source, including the party. Supreme Judicial Court Rule 3:10, Section 7.
- 3. The defendant has requested a screening of his guilty plea by CPCS, which can only be carried out if the defendant is declared indigent.

In support of this motion, the defendant has attached his Affidavit of Indigency, as well as a copy of his prison canteen account and savings account, if any.

Respectfully submitted,

Date: _____ [sign name here]

_____, pro se [print name]

_____ [mailing address]

AFFIDAVIT OF INDIGENCY

AND REQUEST FOR WAIVER, SUBSTITUTION OR STATE PAYMENT OF FEES & COSTS

(Note: If you are **currently confined in a prison or jail** and are not seeking immediate release under G.L. c. 248 §1, but you are suing correctional staff and wish to request court payment of "normal" fees (for initial filing and service), **do not use this form**. Obtain separate forms from the clerk.)

_____ Court _____ Case Name and Number (if known)

Name of applicant: _____

Address: _____
(Street and number) (City or town) (State and Zip)

SECTION 1: Under the provisions of General Laws, Chapter 261, Sections 27A-27G, I swear (or affirm) as follows:
I AM INDIGENT in that (check only one):

- (A) I receive public assistance under Transitional Aid to Families with Dependent Children (TAFDC), Emergency Aid to Elderly, Disabled or Children (EAEDC), Supplemental Security Income (SSI), Medicaid (MassHealth) or Massachusetts Veterans Benefits Programs; (circle form of public assistance received); or
- (B) My income, less taxes deducted from my pay, is \$ _____ per week/month/year (circle period that applies), for a household of _____ persons, consisting of myself and _____ dependents; which income is at or below the court system's poverty level; (Note: The court system's poverty levels for households of various sizes must be posted in this courthouse. If you cannot find it, ask the clerk. The court system's poverty level is updated each year.) [List any other available household income for the circled period on this line: _____] or
- (C) I am unable to pay the fees and costs of this proceeding, or I am unable to do so without depriving myself or my dependents of the necessities of life, including food, shelter and clothing.

IF YOU CHECKED (C), YOU MUST ALSO COMPLETE THE SUPPLEMENT TO THE AFFIDAVIT OF INDIGENCY.

SECTION 2: (Note: In completing this form, please be as specific as possible as to fees and costs known at the time of filing this request. A supplementary request may be filed at a later time, if necessary.)

I request that the following **NORMAL FEES AND COSTS** be waived (not charged) by the court, or paid by the state, or that the court order that a document, service or object be substituted at no cost (or a lower cost, paid for by the state): (Check all that apply and, in any "\$ ____" blank, indicate your best guess as to the cost, **if known**.)

- Filing fee and any surcharge. \$ _____
- Filing fee and any surcharge for appeal. \$ _____
- Fees or costs for serving court summons, witness subpoenas or other court papers. \$ _____

Other fees or costs of \$ _____ for (specify): _____

Substitution (specify): _____

SECTION 3: I request that the following **EXTRA FEES AND COSTS** either be waived (not charged), substituted or paid for by the state:

Cost, \$ _____, of expert services for testing, examination, testimony or other assistance
(specify): _____

Cost, \$ _____, of taking and/or transcribing a deposition of (specify name of person): _____

Cassette copies of tape recording of trial or other proceeding, needed to prepare appeal for applicant **not** represented by Committee for Public Counsel Services (CPCS-public defender).

Appeal bond

Cost, \$ _____, of preparing written transcript of trial or other proceeding

Other fees and costs, \$ _____, for (specify) _____

Substitution (specify) : _____

Date signed	Signed under the penalties of perjury x _____
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By order of the Supreme Judicial Court, all information in this affidavit is CONFIDENTIAL. Except by special order of a court, it shall not be disclosed to anyone other than authorized court personnel, the applicant, applicant's counsel or anyone authorized in writing by the applicant.

This form prescribed by the Chief Justice of the SJC pursuant to G.L. c. 261, § 27B. Promulgated March , 2003

SUPPLEMENT TO AFFIDAVIT OF INDIGENCY

AND REQUEST FOR WAIVER, SUBSTITUTION
OR STATE PAYMENT OF FEES & COSTS

(Note: If you checked (C) on the AFFIDAVIT OF INDIGENCY, you must complete this form.)

_____ Court _____ Case Name and Number (if known)

Name of applicant: _____

Address: _____
(Street and number) (City or town) (State and Zip)

Under the provisions of General Laws, Chapter 261, Sections 27A-G, I swear or affirm as follows:

1. PERSONAL INFORMATION

- (a) Date of Birth: _____
- (b) Highest Grade Attained in School: _____
- (c) Special Training: _____
- (d) List any physical or mental disabilities which you wish to reveal and which affect your earning capacity or living expenses:

- (e) Number of Dependents: _____

2. INCOME AFTER TAXES (monthly):

- (a) If from employment, list your occupation and your employer's name and address:

- (b) Source of income, if not from employment: _____

- (c) My gross annual income for the past twelve months was: \$ _____

(d) Gross Income (monthly): \$ _____

(e) Taxes Deducted (monthly):

- Federal Tax \$ _____
- State Tax \$ _____
- Social Security \$ _____
- Medicare \$ _____
- Other Taxes (specify) \$ _____

Total Taxes Deducted \$ _____

(f) Total Income After Taxes (subtract 2(e) from 2(d)): \$ _____

(g) If any other member of your household is employed, list occupation and name and address of his/her employer and monthly income after taxes: _____

3. NET INCOME (monthly):

(a) Income After Taxes (from Line 2(f)): \$ _____

(b) Expenses (monthly):

- | | | | |
|------------------|----------|---------------------------------|----------|
| Rent or Mortgage | \$ _____ | Uninsured Medical Expenses | \$ _____ |
| Food | \$ _____ | Child Care | \$ _____ |
| Electricity | \$ _____ | Education Expenses for Children | \$ _____ |
| Gas | \$ _____ | Child Support | \$ _____ |
| Oil | \$ _____ | Clothing | \$ _____ |
| Water | \$ _____ | Laundry/Cleaning | \$ _____ |
| Telephone | \$ _____ | Car Insurance | \$ _____ |
| Health Insurance | \$ _____ | Transportation Expenses | \$ _____ |
| Other (specify): | \$ _____ | | |

Total Expenses \$ _____

(c) Income After Taxes Minus Expenses (monthly) (subtract 3(b) From 3(a)): \$ _____

4. **ASSETS**

(a) Own home? _____ Market Value \$ _____

Balance owed \$ _____

(b) Own Car? _____ Year & Make _____

Market Value \$ _____ Balance Owed \$ _____

(c) Bank Accounts (specify type and balance) _____

(d) Other Property Including Real Estate (specify type and value) _____

5. **DEBTS**

(a) Specify: _____

6. **MISCELLANEOUS**

(a) Other facts which may be relevant to your ability to pay fees and costs?

Signed under the penalties of perjury:

Signature: _____

Type/Printed Name: _____

Address: _____

Date: _____

By order of the Supreme Judicial Court, all information in this affidavit is CONFIDENTIAL. Except by special order of a court, it shall not be disclosed to anyone other than authorized court personnel, the applicant, applicant's counsel or anyone authorized in writing by the applicant.

This form prescribed by the Chief Justice of the SJC pursuant to G.L. c. 261, § 27B. Promulgated March , 2003