

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

NOV 15 2023

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

ERIKA MEYER,

Plaintiff - Appellant,

v.

FEDERAL BUREAU OF
INVESTIGATION,

Defendant.

No. 23-3053

D.C. No.

3:23-cv-01320-SI

District of Oregon, Portland

ORDER

A review of the district court's docket reflects that the district court dismissed the action in part because it found the complaint was frivolous. This court may dismiss a case at any time, if the court determines the case is frivolous. *See* 28 U.S.C. § 1915(e)(2).

Within 35 days after the date of this order, appellant must:

- (1) file a motion to dismiss this appeal, *see* Fed. R. App. P. 42(b), or
- (2) file a statement explaining why the appeal is not frivolous and should go forward.

If appellant files a statement that the appeal should go forward, appellant also must:

- (1) file in this court a motion to proceed in forma pauperis, OR

(2) pay to the district court \$505.00 for the filing and docketing fees for this appeal AND file in this court proof that the \$505.00 was paid.

If appellant does not respond to this order, the Clerk will dismiss this appeal for failure to prosecute, without further notice. *See* 9th Cir. R. 42-1. If appellant files a motion to dismiss the appeal, the Clerk will dismiss this appeal, pursuant to Federal Rule of Appellate Procedure 42(b). If appellant submits any response to this order other than a motion to dismiss the appeal, the court may dismiss this appeal as frivolous, without further notice.

If appellant files a statement that the appeal should go forward, appellee may file a response within 10 days after service of appellant's statement.

The briefing schedule for this appeal is stayed.

The Clerk will serve on appellant: (1) a form motion to voluntarily dismiss the appeal, (2) a form statement that the appeal should go forward, and (3) a Form 4 financial affidavit. Appellant may use the enclosed forms for any motion to dismiss the appeal, statement that the appeal should go forward, and/or motion to proceed in forma pauperis.

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Appellant(s),

9th Cir. Case No. _____

v.

Appellee(s).

MOTION TO VOLUNTARILY DISMISS APPEAL

Pursuant to Federal Rule of Appellate Procedure 42(b), appellant(s)

_____ hereby move(s)

the court for an order dismissing appeal No. _____ - _____.

Dated: _____

Print Name(s)

Signature(s)

Appellant(s) in Pro Se

Appellant(s), _____ 9th Cir. Case No. _____

Appellee(s).

1. Date(s) of entry of judgment or order(s) you are challenging in this appeal:

2. What claims did you raise to the court below?

3. What do you think the court below did wrong? (You may, but need not, refer to cases and statutes.)

4. Why are these errors serious enough that this appeal should go forward?

5. Additional Information:

Dated: _____

Print Name(s)

Signature(s)

Appellant(s) in Pro Se

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Form 4. Motion and Affidavit for Permission to Proceed in Forma Pauperis

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form04instructions.pdf>

9th Cir. Case Number(s)

Case Name

Affidavit in support of motion: I swear under penalty of perjury that I am financially unable to pay the docket and filing fees for my appeal. I believe my appeal has merit. I swear under penalty of perjury under United States laws that my answers on this form are true and correct. 28 U.S.C. § 1746; 18 U.S.C. § 1621.

Signature

Date

The court may grant a motion to proceed in forma pauperis if you show that you cannot pay the filing fees **and** you have a non-frivolous legal issue on appeal.

Please state your issues on appeal. (*attach additional pages if necessary*)

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov

1. For both you and your spouse, estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income Source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$	\$	\$	\$
Self-Employment	\$	\$	\$	\$
Income from real property (such as rental income)	\$	\$	\$	\$
Interest and Dividends	\$	\$	\$	\$
Gifts	\$	\$	\$	\$
Alimony	\$	\$	\$	\$
Child Support	\$	\$	\$	\$
Retirement (such as social security, pensions, annuities, insurance)	\$	\$	\$	\$
Disability (such as social security, insurance payments)	\$	\$	\$	\$
Unemployment Payments	\$	\$	\$	\$
Public-Assistance (such as welfare)	\$	\$	\$	\$
Other (specify)	\$	\$	\$	\$
TOTAL MONTHLY INCOME:	\$	\$	\$	\$

2. List your employment history for the past two years, most recent employer first.
(Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross Monthly Pay
		From	\$
		To	
		From	\$
		To	
		From	\$
		To	
		From	\$
		To	

3. List your spouse's employment history for the past two years, most recent employer first.
(Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross Monthly Pay
		From	\$
		To	
		From	\$
		To	
		From	\$
		To	
		From	\$
		To	

4. How much cash do you and your spouse have? \$

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial Institution	Type of Account	Amount You Have	Amount Your Spouse Has
		\$	\$
		\$	\$
		\$	\$
		\$	\$

If you are a prisoner seeking to appeal a judgment in a civil action or proceeding, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishing.

Home	Value	Other Real Estate	Value
	\$		\$

Motor Vehicle 1: Make & Year	Model	Registration #	Value
			\$
Motor Vehicle 2: Make & Year	Model	Registration #	Value
			\$

Other Assets	Value
	\$
	\$
	\$

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse	Amount owed to you	Amount owed to your spouse
	\$	\$
	\$	\$
	\$	\$

7. State the persons who rely on you or your spouse for support. If a dependent is a minor, list only the initials and not the full name.

Name	Relationship	Age

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.

	You	Spouse
Rent or home-mortgage payment (include lot rented for mobile home)	\$	\$
- Are real estate taxes included? ☐ Yes ☐ No		
- Is property insurance included? ☐ Yes ☐ No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$	\$
Home maintenance (repairs and upkeep)	\$	\$
Food	\$	\$
Clothing	\$	\$
Laundry and dry-cleaning	\$	\$
Medical and dental expenses	\$	\$
Transportation (not including motor vehicle payments)	\$	\$
Recreation, entertainment, newspapers, magazines, etc.	\$	\$
Insurance (not deducted from wages or included in mortgage payments)		
- Homeowner's or renter's	\$	\$
- Life	\$	\$
- Health	\$	\$
- Motor Vehicle	\$	\$
- Other	\$	\$
Taxes (not deducted from wages or included in mortgage payments)		
Specify	\$	\$

	You	Spouse
Installment payments		
- Motor Vehicle	\$	\$
- Credit Card (name)	\$	\$
- Department Store (name)	\$	\$
Alimony, maintenance, and support paid to others	\$	\$
Regular expenses for the operation of business, profession, or farm (attach detailed statement)	\$	\$
Other (specify)	\$	\$
TOTAL MONTHLY EXPENSES	\$	\$

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months? ☐ Yes ☐ No

If Yes, describe on an attached sheet.

10. Have you spent—or will you be spending—any money for expenses or attorney fees in connection with this lawsuit? ☐ Yes ☐ No

If Yes, how much? \$

11. Provide any other information that will help explain why you cannot pay the docket fees for your appeal.

12. State the city and state of your legal residence.

City State

Your daytime phone number (ex., 415-355-8000)

Your age Your years of schooling