

IOWA DISTRICT COURT, FIFTH JUDICIAL DISTRICT

IN THE MATTER OF COLLECTING A FILING
FEE FOR POSTCONVICTION RELIEF (PCR)
ACTIONS

ADMINISTRATIVE ORDER 2015-25
(Striking Admin. Order 2008-11)

The Court hereby strikes Administrative Order 2008-11 In Re: Order for Payment of Fees for Civil Filing by Inmate/Prisoner. Judges and Clerks of Court of the Fifth Judicial District shall follow the attached Administrative Directive of the State Court Administrator, 2009-1 In the Matter of Clerks of District Court Collecting a Filing Fee for Postconviction Relief (PCR) Actions.

So ordered this 26 day of March, 2015.

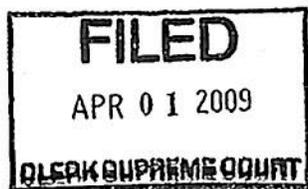

ARTHUR E. GAMBLE, Chief Judge
Fifth Judicial District of Iowa

Cc: Clerks of Court, 5th Judicial District
Judges, 5th Judicial District
State Court Administrator, David Boyd
Justice David Wiggins, Liaison Justice
District Court Administrator, Elizabeth Baldwin
John Sarcone, Polk County Attorney
Polk County Jail
Sheriffs, 5th Judicial District
County Attorneys, 5th Judicial District
Public Defender, Val Wilson
Assistant District Court Administrator, Anne Sheeley

CLERK DISTRICT COURT

15 MAR 26 AM 10:51

FILED
POLK COUNTY, IA.



Iowa Judicial Branch

**Administrative Directive of the State Court Administrator
2009-1**

**In the Matter of Clerks of District Court Collecting a Filing Fee
for Postconviction Relief (PCR) Actions**

Findings: Questions have arisen regarding the collection of filing fees in PCR actions by clerks of court. Following review of current practices around the state and receipt of advice from the Iowa Attorney General's office, the Judicial Branch issues the following directive to assure state-wide consistency. Iowa law provides that PCR actions may be "instituted" without paying a filing fee. Iowa Code § 822.2(1)(2009). Clerks are directed to "accept and docket" a PCR application upon receipt and promptly bring the matter to the attention of the court. Iowa Code §§ 602.8102(115), 822.3. After the PCR application is docketed, a judicial officer, not the clerk of court, determines whether an installment filing fee will be imposed under Iowa Code section 610A.1(1) or filing fees will be deferred pursuant to Iowa Code sections 610.1 and 610A.1(2). ICIS should only reflect a filing fee in a PCR action upon entry of a court order imposing a filing fee. Adherence to this directive assures that convicted or sentenced individuals have access to the courts and that the clerks' records accurately reflect the date upon which a PCR application is received.

Directive: Going forward, all clerks of the district court will comply with the following when a PCR action is filed.

1. Accept the action upon receipt whether or not the applicant pays a filing fee.
2. Docket all PCR actions and leave the determination as to what filing fees should be imposed to a judicial officer.
3. Do not set up a filing fee in ICIS for a PCR action unless a court order imposes a filing fee.

Dated this 15th day of April, 2009.

By 
David K. Boyd
State Court Administrator

cc: Clerks of the District Court
Chief Judges
District Court Administrators
Deputy State Court Administrator
Legal Counsel
Director of Finance and Personnel
ICIS
Pam Griebel, Assistant Attorney General

IOWA DISTRICT COURT, FIFTH JUDICIAL DISTRICT

IN RE: ORDER FOR PAYMENT OF FEES FOR
CIVIL FILING BY INMATE/PRISONER

ADMINISTRATIVE ORDER 2008-11
(Striking Admin. Order 1997-41)

Effective immediately, the Court strikes Administrative Order 1997-41 and substitutes this order in lieu thereof.

Iowa Code Section 822.2(1) provides a person may institute a post-conviction relief motion without paying a filing fee. This applies regardless of whether the applicant is an inmate or prisoner. Iowa Code Chapter 610A governs the payment of fees and costs in other inmate litigation.

NOW THEREFORE, IT IS HEREBY ORDERED that pursuant to Iowa Code Section 822.2(1), upon the filing of a post-conviction, the Clerk shall docket the action and place it in the appropriate case assignment without payment of a filing fee. Pursuant to Section 822.5, if a post-conviction applicant is unable to pay court costs and other specified expenses, these costs and expenses shall be made available to the applicant at State expense. If the Applicant has the ability to pay, is self represented or is utilizing the services of another inmate, the Applicant may be ordered to pay court costs and expenses. However, these costs do not include a filing fee.

IT IS FURTHER ORDERED that pursuant to Section 610A.1(a) in civil actions filed by inmates or prisoners, *other than for post-conviction relief*, the Clerk shall docket the action and place it in the appropriate case assignment upon payment of the minimum filing fee of twenty percent (20%) required by Iowa Code Chapter 610A. Pursuant to Section 610A.1(1), if the person bringing a civil action or appeal is an inmate in an institution or facility under the control of the Department of Corrections or a prisoner of a county or municipal jail or detention facility, the inmate or prisoner shall pay in full all required fees and costs associated with the action or appeal. In addition to any required filing fee, the inmate or prisoner shall make monthly payments of ten percent (10%) of all outstanding fees and costs associated with the inmate's or prisoner's action or appeal, including costs and expenses in post-conviction relief actions under Section 822.5. If the inmate has an inmate account under Section 904.702, the Department of Corrections shall withdraw moneys maintained in the account for the payment of fees and costs associated with the Court's order until the required fees and costs are paid in full. The inmate shall file a certified copy of the inmate's account balance with the Court at the time the action or appeal is filed. An inmate may authorize the Department of Corrections to make or the inmate may make an initial or subsequent payment beyond that required by this order.

IT IS FURTHER ORDERED that pursuant to Section 610A.1(2), the Court may make the authorization provided for in Section 610.1 for deferral of fees and costs if it finds that the inmate does not have sufficient moneys in the inmate's account, or sufficient moneys flowing into the account, to make the payments required in this section or, in the case of a prisoner of a county or municipal jail or detention facility, that the prisoner otherwise meets the requirements of Section 610.1.

IT IS FURTHER ORDERED that pursuant to Section 610A.1(1)(d), the Court may dismiss any civil action or appeal in which the inmate or prisoner has previously failed to pay fees and costs in accordance with Section 610A.1. The Court may also dismiss the action or appeal upon any finding under Section 610A.2(1)(a)-(d), including that the action or appeal is frivolous or malicious in whole or in part, or of the allegation of inability to pay is false.

IT IS FURTHER ORDERED that the inmate or prisoner initiating the action or appeal shall be responsible for service of process in accordance with applicable law or rules of procedure and shall comply with the rules and practices of the Court.

IT IS FURTHER ORDERED that upon filing of a civil action or appeal to which this Administrative Order applies, the Clerk of Court where the action or appeal is filed shall enter this Order on the docket and mail a copy of this Order to the inmate or prisoner initiating the action and the warden, sheriff or jail administrator of the institution where the inmate is held.

So ordered this 5 day of June, 2008.


ARTHUR E. GAMBLE, Chief Judge
Fifth Judicial District of Iowa

Cc: Clerks of Court, 5th Judicial District
Judges, 5th Judicial District