

IN THE SUPREME COURT OF OHIO

ORIGINAL

STATE OF OHIO ex rel.,
JONATHAN CHAPIN, A 503-479,
GRAFTON CORRECTIONAL INSTITUTION,
2500 SOUTH AVON-BELDON ROAD,
GRAFTON, OHIO 44044,
PETITIONER/RELATOR,

VERSUS,

KIMBERLY CLIPPER, WARDEN,
GRAFTON CORRECTIONAL INSTITUTION,
2500 SOUTH AVON-BELDON ROAD,
GRAFTON, OHIO 44044,
RESPONDENT.

11-0786

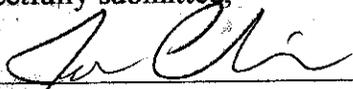
CASE NO. _____

ORIGINAL ACTION

**AFFIDAVIT IN SUPPORT OF WAIVER OF COURT COSTS
AND FULL FILING FEES PURSUANT TO R.C. 2929.25(C)**

PETITIONER/RELATOR

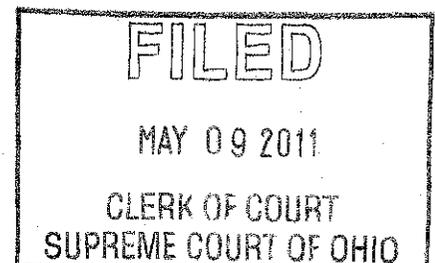
Respectfully submitted,



Jonathan Chapin, pro se
A 503-479
Grafton Correctional Institutional
2500 South Avon-Beldon Road
Grafton, Ohio 44044
(440) 748-1161

RESPONDENT

Kimberly Clipper, WARDEN
Grafton Correctional Institution
2500 S. Avon-Beldon Road
Grafton, Ohio 44044
(440) 748-1161



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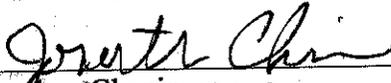
CASE NO. _____

(ORIGINAL ACTION)

RELATOR'S AFFIDAVIT OF WAIVER
OF ALL FILING FEES AND COURT
COSTS IN SUPPORT OF PETITION
FOR WRIT OF HABEAS CORPUS

Now comes, Jonathan Chapin, Relator herein, who respectfully submits to this Court affidavits permitting him waiver of prepayment of the full filing fees and court costs. Said affidavits meet the requirements of R.C. 2969.25(C)(1)(2) and are attached hereto with good cause shown.

Respectfully submitted,


Jonathan Chapin, pro se
A 503-479
Grafton Correctional Institution
2500 S. Avon-Belden Road
Grafton, Ohio 44044
(440) 748-1161

Ohio Department of Rehabilitation and Correction

SECTION I - To be completed by cashier prior to this form being presented to the inmate for completion of SECTION II - Affidavit of Indigency.

I, Dale Thompson, cashier at the Grafton Correctional Institution certify that the following is a true and accurate reflection of the status of the account maintained at this institution for the benefit of:

Inmate Name: <u>Jonathan A. Chapin</u>	Inmate Number: <u>#A503-479</u>
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The Prison Litigation Reform Act (PLRA) requires that the time period to be considered is the preceeding six months. It also requires that, "...if financial activity is less than six months due to less than six months of incarceration, then note this fact on the statement. If lack of history is due to recent transfer, then obtain missing month-end reports from sending cashier to complete the six month period. The sending cashier must similarly certify the monthend reports."

The time period being reported below is: Six months Fewer than six months, beginning _____

The time period is fewer than six months, because: Period of Incarceration Transfer

Account Balance as of 4/28/11: \$ 3.69

Total state pay credited for the report period; \$ 54.00

Average monthly state pay for the report period; \$ 173.50

Total funds received from all sources, excluding state pay, for the report period; \$ 217.00

Total amount spent in inmate's commissary during the same period; \$ 308.37

Signature of Cashier: <u>Dale Thompson</u>	Date: <u>4/28/11</u>
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AFFIDAVIT OF INDIGENCY

SECTION II - To be completed by inmate after cashier's statement is completed.

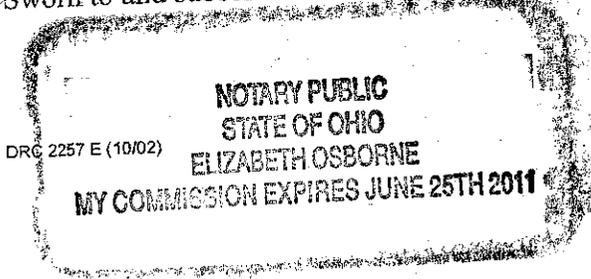
I, Jonathan A. Chapin, being first duly sworn, says that he/she does not have sufficient funds to pay the filing fee and other costs of prosecuting this complaint against the State of Ohio, and submits the cashier's statement (Section I) in support of said allegation of indigency.

I hereby represent that the Information set forth in the cashier's statement concerning my financial condition is true and complete to the best of my knowledge and belief.

Signature of Inmate: <u>[Signature]</u>	Inmate Number: <u>#A503-479</u>
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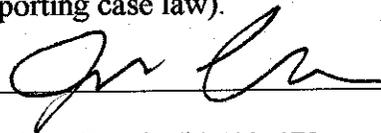
Sworn to and subscribed to me in my presence this 3 day of May, 2011.

Notary Public: <u>Elizabeth Osborne</u>
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**AFFIDAVIT OF INDIGENCE
FOR WAIVER OF FILING FEES
AND COURT COSTS**

I, Jonathan Chapin, Relator herein either affirm, attest, or swear, under the penalties of perjury, that to the best of his knowledge and understanding the foregoing is correct and true: **(1)** He is a prisoner of the State of Ohio and his prison earnings, pursuant to Ohio Administrative Code 5120:3 - 08, are \$24.00 (twenty-four dollars) or less per month which does not exceed the exempt provisions for income pursuant to Ohio Revised Code (R.C.) 2329.66(A)(13); **(2)** He owns no chattels, real estate, nor cash in excess of the exempt provisions set forth in R.C. 2329.66(A); **(3)** pursuant to R.C. 5120.133 he is entitled to claim any and all exemptions as set forth in R.C. 2329.66; and **(4)** He is entitled, pursuant to R.C. 2329.69, to apply the exemptions set forth in R.C. 2329.66 to all court costs and filing fees assessed against him in this action. Hence, under provisions of Ohio Revised and Administrative Codes, Defendant is indigent and unable to pay the costs and filing fees related to this action. (See attached "Appendix A" for delineation of aforementioned rule, statutes, and supporting case law).



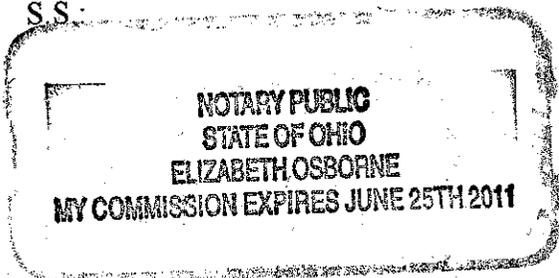
Jonathan Chapin #A503-479
Grafton Correctional Institution
2500 South Avon-Belden Road
Grafton, Ohio 44044
(440) 748-1161

SWORN TO AND SUBSCRIBED BEFORE ME, A NOTARY PUBLIC FOR THE
STATE OF OHIO, THIS 3rd DAY OF May 2011.

S.S.:



NOTARY PUBLIC, STATE OF OHIO



APPENDIX A (1 OF 2)

Supreme Court of Ohio.

STATE v. WHITE

103 Ohio St.3d 580, 817 N.E.2d 393, 2004-Ohio-5989

2. Constitutional Law

Collection of court costs that had been assessed against indigent defendant as part of his sentence following his felony conviction did not punish defendant for exercising his right to trial by jury, such as would violate Equal Protection Clause; administrative code provision governing court orders for payment of funds from prison inmate's account required that defendant, in his status as prison inmate, be informed of his right to claim protective exemptions for indigent inmates and types of exemptions available. U.S.C.A. Const.Amend. 14; R.C. § 2329.66; OAC 5120-5-03.

5120.133 Payment of obligations from prisoners' accounts

(B) The department may adopt rules specifying a portion of an inmate's earnings or other receipts that the inmate is allowed to retain to make purchases from the commissary and that may not be used to satisfy an obligation pursuant to division (A) of this section. The rules shall not permit the application or disbursement of funds belonging to an inmate if those funds are exempt from execution, garnishment, attachment, or sale to satisfy a judgment or order pursuant to section 2329.66 of the Revised Code or to any other provision of law.

2329.66 Property that person domiciled in this state may hold exempt

(A) Every person who is domiciled in this state may hold property exempt from execution, garnishment, attachment, or sale to satisfy a judgment or order, as follows: ...

(13) Except as provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code, personal earnings of the person owed to the person for services in an amount equal to the greater of the following amounts:

(a) If paid weekly, thirty times the current federal minimum hourly wage; if paid biweekly, sixty times the current federal minimum hourly wage; if paid semimonthly, sixty-five times the current federal minimum hourly wage; or if paid monthly, one hundred thirty times the current federal minimum hourly wage that is in effect at the time the earnings are payable, as prescribed by the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 U.S.C. 206(a)(1), as amended;

(b) Seventy-five per cent of the disposable earnings owed to the person.

APPENDIX A (2 OF 2)

2329.69 Exemptions apply to all courts

Sections 2329.63 to 2329.71 of the Revised Code, with respect to exemptions, apply to all courts in this state, and a person is entitled to all applicable exemptions in any case or proceeding before any court or officer.

5120-3-08 Inmate compensation for work program assignments and related matters

(A) Inmates who are assigned to work programs, other than those operated by Ohio penal industries, are enrolled in institutional school programs or who are unassigned, shall receive compensation according to the following schedule: ...

- (6) "Category six inmates" are those in full-time work assignments or apprenticeship training, of at least one hundred forty hours per month, or those who are full-time students or those who are part-time students with part-time work assignments with a combined total of at least one hundred forty hours per month.

<u>Grade</u>	<u>Maximum Security Level</u>	<u>Close Security Level</u>	<u>Medium Security Level</u>	<u>Minimum Security Level</u>
Apprenticeship	\$12.00	\$13.00	\$14.00	\$16.00
General labor	\$16.00	\$17.00	\$18.00	\$20.00
Semi-skilled	\$17.00	\$18.00	\$19.00	\$21.00
Skilled	\$18.00	\$19.00	\$20.00	\$22.00

Those inmates who are full-time students or part-time students with part-time work assignments shall be compensated at the general labor grade within the proper security level.

(7) Category seven inmates shall receive twenty-four dollars per month to be credited and paid to the personal account. "Category seven inmates" include those with full-time work assignments requiring a high degree of skill or responsibility which are authorized by the managing officer. The number of inmates in category seven may not exceed three per cent of the institution's population.