

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO
CRIMINAL DIVISION

STATE OF OHIO

Plaintiff

-vs-

CASE NO.

JUDGE:

MOTION TO WAIVE COURT COSTS

Defendant

Now comes the defendant, *pro se*, and respectfully files the instant motion to waive and/or suspend the court costs assessed against him.

Respectfully submitted,

Defendant, *pro se*
Address:

MEMORANDUM IN SUPPORT OF MOTION

With this motion, defendant respectfully requests that this Court waive his court costs due to his indigency. Attached to this motion is a notarized affidavit outlining defendant's current financial situation.

On _____, defendant was convicted of _____ and sentenced to _____. He was also ordered to pay court costs in the amount of _____.

Defendant is now struggling financially and respectfully requests that this Court consider waiving the remaining court costs in light of his indigency. Specifically, the defendant asks this Court to consider the following information about his financial situation and present circumstances:

This Court has the authority to waive or suspend court costs for indigent criminal defendants *at any time*. Although the Ohio Supreme Court had previously held that court costs may only be waived at sentencing based on a prior version of the law, *State v. Threatt*, 108 Ohio St. 3d 277, 282, 2006-Ohio-905, the Ohio General Assembly abrogated that holding by amending the applicable law. With House Bill 247 (eff. 3/22/13), the Ohio General Assembly amended R.C. 2947.23 to expressly afford trial courts the continuing jurisdiction to waive court costs after sentencing:

The court retains jurisdiction to waive, suspend, or modify the payment of the costs of prosecution, including any costs under section 2947.231 of the Revised Code, at the time of sentencing *or at any time thereafter*.

2947.23(C) (emphasis added). This Court has the authority to waive court costs even if they were imposed prior to the effective date of House Bill 247. *State v. Braden*, 158 Ohio St. 3d 462 (2019). Thus, this Court clearly has the authority to waive defendant's court costs at this time.

WHEREFORE, defendant respectfully moves this Honorable Court, in light of his indigency, to waive court costs which have been assessed against him.

DEFENDANT, pro se

SERVICE

A copy of the herein-filed motion was served upon Michael O'Malley, Cuyahoga County Prosecutor, and/or a member of his staff, via ordinary mail on this ____ day of _____, _____.

DEFENDANT, pro se

FINANCIAL DISCLOSURE / AFFIDAVIT OF INDIGENCY

(\$25.00 application fee may be assessed—see notice on reverse side)

I. PERSONAL INFORMATION

Applicant's Name	D.O.B.	Person Represented's Name <i>(if juvenile)</i>	D.O.B.
Mailing Address	City	State	Zip Code
Case No.	Phone ()	Cell Phone ()	

II. OTHER PERSONS LIVING IN HOUSEHOLD

Name 1)	D.O.B.	Relationship	Name 3)	D.O.B.	Relationship
2)			4)		

III. PRESUMPTIVE ELIGIBILITY

The appointment of counsel is presumed if the person represented meets any of the qualifications below. Please place an 'X'

Ohio Works First / TANF: ___ SSI: ___ SSD: ___ Medicaid: ___ Poverty Related Veterans' Benefits: ___ Food Stamps: ___

Refugee Settlement Benefits: ___ Incarcerated in state penitentiary: ___ Committed to a Public Mental Health Facility: ___

Other (please describe): _____ Juvenile: ___ *(if juvenile, please continue at Section VIII)*

IV. INCOME AND EMPLOYER

	Applicant	Spouse <small>(Do not include spouse's income if spouse is alleged victim)</small>	Total Income
Gross Monthly Employment Income			
Unemployment, Worker's Compensation, Child Support, Other Types of Income			
TOTAL INCOME			\$

Employer's Name: _____ Phone Number: _____

Employer's Address: _____

V. LIQUID ASSETS

Type of Asset	Estimated Value
Checking, Savings, Money Market Accounts	\$
Stocks, Bonds, CDs	\$
Other Liquid Assets or Cash on Hand	\$
Total Liquid Assets	\$

VI. MONTHLY EXPENSES

Type of Expense	Amount	Type of Expense	Amount
Child Support Paid Out		Telephone	
Child Care (if working only)		Transportation / Fuel	
Insurance (medical, dental, auto, etc.)		Taxes Withheld or Owed	
Medical / Dental Expenses or Associated Costs of Caring for Infirm Family Member		Credit Card, Other Loans	
Rent / Mortgage		Utilities (Gas, Electric, Water / Sewer, Trash)	
Food		Other (Specify)	
EXPENSES	\$	EXPENSES	\$

VII. DETERMINATION OF INDIGENCY

If applicant's Total Income in Section IV is at or below 187.5% of the Federal Poverty Guidelines, counsel must be appointed.

For applicants whose Total Income in Section IV is above 125% of the Federal Poverty Guidelines, see recoupment notice in Section XI.

If applicant's Liquid Assets in Section V exceed figures provided in OAC 120-1-03, appointment of counsel may be denied if applicant can employ counsel using those liquid assets.

If applicant's Total Income falls above 187.5% of Federal Poverty Guidelines, but applicant is financially unable to employ counsel after paying monthly expenses in Section VI, counsel must be appointed.

