

July 26 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Robert L. Rose #38060
Montana State Prison
700 Conley Lake Road
Deer Lodge, MT 59722

Appellant pro se

IN THE SUPREME COURT OF THE STATE OF MONTANA

ROBERT L. ROSE

Cause No.

DA 10-0362

Appellant,

v.

KELLI SATHER

MOTION AND AFFIDAVIT IN SUPPORT
TO PROCEED ON APPEAL WITHOUT
PAYMENT OF FILING FEE

Appellee.

I, the Appellant in the above entitled cause and hereby move this honorable court to proceed without the filing fee in this cause, and I submit this affidavit in support of my motion.

I, Robert L. Rose, being first duly sworn, depose and say that I am the Appellant in the above entitled cause; that in support of my application to proceed on appeal without being required to pay the filing fee, I state that because of my financial condition I am unable to pay the filing fee; that I believe I am entitled to redress; and that the issues which I desire to present on appeal are the following:

- 1.] Whether the District Court abused its discretion by finding that all of Appellants claims are in need of expert testimony/

- 2.] Whether the District Court Abused its discretion in in denying Appellant's Request to Modify the Rule 16 Scheduling Order
- 3.] Whether the District Courts DISMISSAL WITH PREJUDICE is proper while Appellants Post-Conviction Claims are not yet decided concerning ineffective assistance of the Defendant in thsi case.

I further swear that the response which I have made to the questions and instructions below relateing to my inability to pay the cost of prosecuting this appeal are true.

1. Are you presently employed? NO.
2. If the answer is no, state the date of last employment And amount of Salary and wages per month you received.
Nov. 2007. (\$1,000 month.)

Pursuant to Rule 5(2), Affiant ATTACHES the
Prisons Accounting Statement.