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ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY: *[Signature]*
DEPUTY CLERK

1 ORDR

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5 DISTRICT COURT
6 FAMILY DIVISION
7 CLARK COUNTY, NEVADA
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11 CANDICE K. TOWNER,

12 PLAINTIFF,

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14 vs.

15 FREDERICK O. SILVER,

16 DEFENDANT.
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CASE NO. D-18-565588-C

DEPT. NO. H

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19 **DECISION AND ORDER REGARDING**

20 **APPLICATIONS TO PROCEED IN FORMA PAUPERIS**

21 Date of Hearing: N/A / Time of Hearing: N/A

22 This order was filed following the receipt of an Order from the Nevada
23 Supreme Court filed on November 18, 2020, directing the district court to enter
24 an order concerning a request for forma pauperis status. On June 2, 2020, this
25 court filed the most recent written order denying Frederick Silver's Application to
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20-44786

1 Proceed in Forma Pauperis. Since that order was filed, Frederick Silver filed
2 another Notice of Appeal on July 16, 2020. This appeal was dismissed on
3 September 3, 2020. Frederick Silver filed another Notice of Appeal on
4 September 20, 2020. In the interim, Frederick Silver filed another Application to
5 Proceed in Forma Pauperis on September 8, 2020. Frederick Silver filed another
6 Notice of Appeal on October 20, 2020, and Mr. Silver filed another Application
7 to Proceed in Forma Pauperis on October 26, 2020.
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11 Like previous applications, Frederick Silver, in Applications filed on
12 September 20, 2020 and on October 26, 2020, failed to provide facts with
13 particularity concerning income, property, and other resources which establish
14 that Mr. Silver is unable to pay the costs related to his appeal. Frederick Silver
15 alleged that he is unemployed. The application did not attach documents showing
16 income, such as paycheck stubs or earning statements.
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19 This current appeal is either the sixth or seventh appeal filed by Frederick
20 Silver since the case was closed with the filing of a Custody Decree on November
21 19, 2018. Frederick Silver's prior appeals were dismissed by the Nevada
22 Supreme Court on February 23, 2019 (Supreme Court Case No. 77673), July 26,
23 2019 Supreme Court Case No. 78005), October 29, 2019 (Supreme Court Case
24 No. 79527), and September 3, 2020 2019 (Supreme Court Case No. 81514).
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1 This court was not aware of Frederick Silver's Application to Proceed in
2 Forma Pauperis that was filed on September 8, 2020, or Frederick Silver's
3 Application to Proceed in Forma Pauperis that was filed on October 26, 2020,
4 until it received the November 18, 2020 Order from the Nevada Supreme Court.
5 On June 2, 2020, Mr. Silver filed two Applications to Proceed in Forma Pauperis.
6 These applications were submitted for ex-parte consideration, and were resolved
7 with the Decision and Order filed on June 2, 2020.
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11 This court reviewed the applications and supporting affidavit pursuant to
12 EDCR 2.23 (c) and NRS 12.015.
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14 EDCR 2.23 (c) provides in pertinent part:
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16 (c) The judge may consider the motion on the merits at any time with
17 or without oral argument, and grant or deny it.
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19 **NRS 12.015 Indigent litigants: Waiver of costs and official fees; effect**
20 **of filing affidavit of indigency, provides:**
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22 1. Any person who desires to prosecute or defend a civil action may:

23 (a) File an affidavit with the court setting forth with particularity
24 facts concerning his income, property and other resources which
25 establish that he is unable to prosecute or defend the action because
26 he is unable to pay the costs of so doing; or
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(b) Submit a statement or otherwise indicate to the court that he is a client of a program for legal aid.

2. If the court is satisfied that a person who files an affidavit pursuant to subsection 1 is unable to pay the costs of prosecuting or defending the action or if the court finds that a person is a client of a program for legal aid, the court shall order:

(a) The clerk of the court:

(1) To allow the person to commence or defend the action without costs; and

(2) To file or issue any necessary writ, process, pleading or paper without charge.

(b) The sheriff or other appropriate public officer within this State to make personal service of any necessary writ, process, pleading or paper without charge.

3. If the person is required to have proceedings reported or recorded, or if the court determines that the reporting, recording or transcription of proceedings would be helpful to the adjudication or appellate review of the case, the court shall order that the reporting, recording or transcription be performed at the expense of the county in which the action is pending but at a reduced rate as set by the county.

- 1 4. If the person prevails in the action, the court shall enter its order
2 requiring the losing party to pay into court within 5 days the costs
3 which would have been incurred by the prevailing party, and those
4 costs must then be paid as provided by law.
- 5 5. Where the affidavit establishes that the person is unable to defend an
6 action, the running of the time within which to appear and answer or
7 otherwise defend is tolled during the period between the filing of the
8 affidavit and the ruling of the court thereon.
- 9 6. An affidavit filed pursuant to this section, and any application or
10 request for an order filed with the affidavit, does not constitute a
11 general appearance before the court by the affiant or give the court
12 personal jurisdiction over him.
- 13 7. The order of the court to which application is made pursuant to this
14 section is not appealable.
- 15 8. As used in this section, "client of a program for legal aid" means a
16 person:
 - 17 (a) Who is represented by an attorney who is employed by or
18 volunteering for a program for legal aid organized under the
19 auspices of the State Bar of Nevada, a county or local bar
20 association, a county or municipal program for legal services
21 person:

1 or other program funded by this State or the United States to
2 provide legal assistance to indigent persons; and

3
4 (b) Whose eligibility for such representation is based upon
5 indigency.

6 (Added to NRS by 1967, 1209; A 1989, 201; 1991, 455; 2005, 197)

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8 The district court has discretion to grant or deny these applications. This
9 court considered the papers and pleadings, and concludes that Frederick Silver
10 failed to provide facts with particularity concerning income, property, and other
11 resources which establish that Mr. Silver is unable to pay the costs related to his
12 appeal. Frederick Silver alleged that he is unemployed. The application did not
13 attach documents showing income, such as paycheck stubs or earning statements.
14 The court has not received a Financial Disclosure forms, and has not received
15 information explaining how Mr. Silver pay his living expenses. In previous
16 applications, Mr. Silver reported income from employment of \$1,680.00 per
17 month as a production Team Manager with Toyota. In the child support case, R-
18 17-196685-R, the child support court found that Frederick Silver had been
19 employed in other jobs in 2017, earning \$18.00 per hour, or \$3,120.00 per month.
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25 This court concludes that a waiver of fees and costs has not been justified
26 in this case because there is an insufficient showing that Mr. Silver is indigent.
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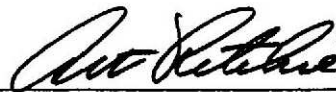
1 This court concludes that Frederick Silver's June 2, 2020, applications to proceed
2 in forma pauperis lacks merit and should be denied.
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4 Therefore,

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6 **IT IS HEREBY ORDERED** that Frederick Silver's Applications to
7 Proceed in Forma Pauperis filed on September 20, 2020, and on October 26,
8 2020, are denied.
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10 DATED this ____ day of _____, 2020.

11 Dated this 25th day of November, 2020

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15 35A 80F 31BA 19BD
16 T. Arthur Ritchie
17 District Court Judge
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1 CSERV

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA
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6 Candice K Towner, Plaintiff.

CASE NO: d-18-565588-c

7 vs.

DEPT. NO. Department H

8 Frederick O Silver, Defendant.
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10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Order was served via the court's electronic eFile system to all
13 recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 11/25/2020

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