

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**In the Matter of EVA HIGSMITH and  
WINFRED N. HIGSMITH,**

:  
:  
:  
:  
:  
:  
:  
:  
:  
:

**CIVIL ACTION  
NO. 04-1514**

**MEMORANDUM AND ORDER**

**RUFE, J.**

**June 8, 2004**

Eva and Winfred Highsmith seek to appeal this Court’s April 29, 2004 Order dismissing their appeal from an Order of the United States Bankruptcy Court for the Eastern District of Pennsylvania for failure to comply with Rule 8006 of the Rules of Bankruptcy Procedure. In connection with their appeal to the Third Circuit Court of Appeals, appellants seek leave to proceed in forma pauperis.

Under Federal Rule of Appellate Procedure 24(a)(1) an appellant’s motion to proceed in forma pauperis must include “an affidavit that: (A) shows in the detail prescribed by Form 4 of the Appendix of Forms the party’s inability to pay or to give security for fees and costs; (B) claims an entitlement to redress; and (C) states the issues that the party intends to present on appeal.” Appellants have satisfied the latter two requirements, but they have not presented in adequate detail their ability to pay fees and costs. For example, appellants represent that they receive “SSI Disability and Pension,” but fail to state the amount they receive. This information is specifically requested on Form 4 of the Appendix of Forms (Question No. 1). Appellants also state on the one hand that they do not receive any income from business, self-

employment, rent, etc., but then claim immediately thereafter that they “receive a total of approximately \$2,500.00” without identifying the source thereof. Appellants claim to have a bank balance of “0,” but then claim that “[m]ostly every month we carry a negative income deficit of \$1,200.00 a month.” Appellants claim to own six properties, described as “Non-Domestic Non-Resident,” but fail to list the value of these properties. Such information is specifically requested on Form 4 (Question 5). Finally, appellants assert ownership over an “Indemnity & In-surety Bond . . . worth an estimated \$100,000,000,000.00,” and “Copyright Notice against unauthorized use of my trade name worth \$500,000.00 per unauthorized use.”

Given the contradictory and confusing nature of the information presented in appellants’ Motion, the Court cannot conclude that leave should be granted to proceed in forma pauperis. The Court will append to this Order a copy of Form 4 so that appellants may reassert their Motion with the completed Form 4 attached.

**AND NOW**, this 8th day of June, 2004, for the reasons stated above, it is hereby **ORDERED** that the “Motion to File Informa Pauperis” [Doc. # 6] is **DENIED WITHOUT PREJUDICE** to appellants’ right to reassert the motion to conform with Federal Rule of Appellate Procedure 24 within fourteen (14) days of the date of this Order. The Clerk of Court is directed to append the attached photocopy of Form 4 to this Order and transmit it to appellants.

It is so **ORDERED**.

**BY THE COURT:**

---

**CYNTHIA M. RUFÉ, J.**