

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,
Plaintiff,

v.

No. 13-10140-02-JWB

MARISELA RAMIREZ,

Defendant.

MEMORANDUM AND ORDER

This matter is before the court on Defendant's motions for leave to appeal in forma pauperis ("IFP"). (Docs. 197, 198¹). The motions allege that Defendant is without funds to pay the costs of an appeal and indicate she seeks to appeal this court's dismissal of her motion for reduction of sentence.

The court is authorized to permit an appeal without prepayment of fees under certain conditions, one of which is that a prisoner must submit "an affidavit that includes a statement of all assets such prisoner possesses." 28 U.S.C.A. § 1915(a)(1).

The application form for obtaining leave to appeal IFP (which was submitted by Defendant) includes the following directions:

If you are a prisoner, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

¹ Defendant appears to have filed two copies of the motion.

(Doc. 197 at 4.²) Defendant stated in her motion(s) that “I am in prison and attached you will find my last year statements as requested by you.” (Docs. 197 at 4, 198 at 4.) However, no statement of Defendant’s institutional account(s) was attached to her filings.

Because the motion and affidavit submitted by Defendant does not include a statement of the assets in Defendant’s institutional account, the court concludes it does not satisfy the requirements of section 1915(a)(1).

Defendant’s motions for leave to appeal in forma pauperis (Docs. 197, 198) are DENIED without prejudice. Defendant may renew her motion upon a proper showing of her assets, including her institutional account.

IT IS SO ORDERED this 11th day of May, 2020.

s/ John W. Broomes
JOHN W. BROOMES
UNITED STATES DISTRICT JUDGE

² This statement derives from 28 U.S.C. § 1915(a)(2), which requires a prisoner seeking to appeal a civil action to provide, in addition to the information required by 1915(a)(1), a certified copy of the prisoner’s trust account for the last six months. Defendant’s appeal is likely criminal rather than civil in nature, such that the requirement of a certified account statement may not apply. But section 1915(a)(1) still requires movants, whether civil or criminal, to provide a complete statement of assets, including any assets currently held in an institutional account.