

Eldon B. Mahon U.S. Courthouse  
(U.S. Dist. Ct., N.D.T.X., Ft. Worth Div.)  
Attn: Clerk Robert P. Colwell  
501 West 10th Street, Room 310  
Ft. Worth, Texas 76102  
Tel: 817.850.6000

Re: Notice of Appeal  
Civ. Action No. 4:08-CV-147-Y  
Appeal No. 21-10301

Date: 3-18-21 23

Please find enclosed two copies of:

1. Petitioner-Appellant's Notice of Appeal

In the above matter. Please bring it to the attention of the court.

Respectfully submitted,

By: \_\_\_\_\_  
BARTON R. GAINES, Pro Se  
244 Siesta Court  
Granbury, Texas 76048  
Tel.: 682-500-7326  
Email bartongaines@gmail.com

Edward L. Marshall  
Chief, Criminal Appeals Division  
Texas Attorney General's Office  
P.O. BOX 12548  
Austin, Texas 78711  
Tel.: 512-936-1400  
Fax: 512-320-8132

Re: Notice of Appeal  
Civ. Action No. 4:08-CV-147-Y

Date: 3-2-21

Please find enclosed:

1. Notice of Appeal

In the above matter.

Respectfully submitted,

By: \_\_\_\_\_  
BARTON R. GAINES, Pro Se  
244 Siesta Court  
Granbury, Texas 76048  
Tel.: 682-500-7326  
Email bartongaines@gmail.com

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS,  
FORT WORTH DIVISION**

BARTON R. GAINES,	§	
Petitioner,	§	
v.	§	Civ. Action No. 4:08-CV-147-Y
LORIE DAVIS, Director,	§	
Tex. Dep't of Crim. Justice -	§	
Corr. Insts. Div.,	§	
Respondent.	§	

**NOTICE OF APPEAL**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE TERRY ROBERT MEANS:

Movant-Petitioner Barton R. Gaines, through undersigned counsel, hereby gives notice that Petitioner is taking appeal to the United States Court of Appeals for the Fifth Circuit from the Order Denying Relief from the Judgment denying Gaines's motion for relief from judgment filed pursuant to Rule 60 and denying Gaines a certificate of appealability.

Respectfully submitted,

By: \_\_\_\_\_  
BARTON R. GAINES, Pro Se  
244 Siesta Court  
Granbury, Texas 76048  
Tel.: 682-500-7326  
Email bartongaines@gmail.com

**CERTIFICATE OF SERVICE**

I, the undersigned, certify that on 3/18/2021, a copy of petitioner's motion for relief from the judgment was served by U.S. mail on the following attorney in charge for respondent

Edward L. Marshall  
Chief, Criminal Appeals Division  
Texas Attorney General's Office  
P.O. BOX 12548  
Austin, Texas 78711  
Tel.: 512-936-1400  
Fax: 512-320-8132

By: \_\_\_\_\_

# **FORM 4 AFFIDAVIT ACCOMPANYING MOTION FOR PERMISSION TO APPEAL IN FORMA PAUPERIS**

Northern Texas, Ft. Worth Div  
United States District Court for the \_\_\_\_\_ District of \_\_\_\_\_  
Barton R. Gaines  
v. Lorie Davis  
Case No. 4:08-CV-147-Y

<p align="center"><b>Affidavit in Support of Motion</b></p> <p>I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury under United States laws that my answers on this form are true and correct. (28 U.S.C. § 1746; 18 U.S. – § 1621.)</p> <p>Signed: _____</p>	<p align="center"><b>Instructions</b></p> <p>Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write in that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.</p> <p align="center"><b>3-25-21</b></p> <p>Date: _____</p>
--	--

## **Integrity, Extra-Ordinary, & Timeliness**

My issues on appeal are: \_\_\_\_\_

- For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You 31/12=253	Spouse Single	You	Spouse Single
Employment	\$ 400	\$	\$ 400	\$
Self-employment	\$	\$	\$	\$
Income from real property (such as rental income)	\$	\$	\$	\$
Interest and dividends	\$	\$	\$	\$
Gifts	\$	\$	\$	\$
Alimony	\$	\$	\$	\$
Child support	\$	\$	\$	\$
Retirement (such as social security, pensions, annuities, insurance)	\$	\$	\$	\$
Disability (such as social security, insurance payments)	\$ n/a	\$	\$ n/a	\$
Unemployment payments	\$	\$	\$	\$
Public-assistance (such as welfare)	\$	\$	\$	\$
Other (specify): _____	\$ 400	\$	\$ 400	\$
Total monthly income:	\$ 400	\$	\$ 400	\$

**MISC-14**

**FED. R. APP. P. WITH 5TH CIR. R. & IOPs**

2. List your employment history, for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
DCJ-CID	2661 FM 2054, Tenn. Colony, Tx	2-21-2002	\$0
FedEx	2001-B World Wide, Ft. Worth, Tx	1-31-2021	\$364
_____	_____	_____	_____
_____	_____	_____	_____

3. List your spouse's employment history, for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
Single			

4. How much cash do you and your spouse have? \$ \$2

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial institution	Type of account	Amount you have	Amount your spouse has
Bank	Checking	\$ \$2	\$
_____	_____	\$	\$
_____	_____	\$	\$

If you are a prisoner, seeking to appeal a judgment in a civil action or proceeding, 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.

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

Home (Value)	Other real estate (Value)	Motor vehicle #1 (Value)
n/a	n/a	n/a
_____	_____	Make & year: _____
_____	_____	Model: _____
_____	_____	Registration # _____

**MISC-14**

**FED. R. APP. P. WITH 5TH CIR. R. & IOPs**

Motor vehicle #2 (Value)	Other assets (Value)	Other assets (Value)
n/a	n/a	n/a
Make & year: _____	_____	_____
Model: _____	_____	_____
Registration #: _____	_____	_____

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
n/a	n/a	n/a
_____	_____	_____
_____	_____	_____
_____	_____	_____

7. State the persons who rely on you or your spouse for support.

Name (or, if under 18, initials only)	Relationship	Age
n/a	n/a	n/a
_____	_____	_____
_____	_____	_____
_____	_____	_____

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.

	You	Your Spouse
Rent or home-mortgage payment (include lot rented for mobile home)	\$ 200	\$ n/a
Are real-estate taxes included? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Is property insurance included? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Utilities (electricity, heating fuel, water, sewer, and Telephone)	\$ 50	\$ _____
Home maintenance (repairs and upkeep)	\$ 20	\$ _____
Food	\$ 50	\$ _____
Clothing	\$ 20	\$ _____
Laundry and dry-cleaning	\$ 20	\$ _____
Medical and dental expenses	\$ 20	\$ _____
Transportation (not including motor vehicle payments)	\$ 26.84	\$ _____
Recreation, entertainment, newspapers, magazines, etc.	\$ 50	\$ _____

**MISC-14**

**FED. R. APP. P. WITH 5TH CIR. R. & IOPs**

Insurance (not deducted from wages or included in Mortgage payments)	\$ <u>n/a</u>	\$ <u>n/a</u>
Homeowner's or renter's	\$ _____	\$ _____
Life	\$ _____	\$ _____
Health	\$ _____	\$ _____
Motor Vehicle	\$ _____	\$ _____
Parole & Ct. Cost	<u>20+12=32</u>	
Other: _____	\$ _____	\$ _____
Taxes (not deducted from wages or included in Mortgage payments) (specify): _____	\$ _____	\$ _____
Installment payments	\$ _____	\$ _____
Motor Vehicle	\$ _____	\$ _____
Credit card (name): _____	\$ _____	\$ _____
Department store (name): _____	\$ _____	\$ _____
Other: _____	\$ _____	\$ _____
Alimony, maintenance, and support paid to others	\$ _____	\$ _____
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ _____	\$ _____
Other (specify): _____	\$ _____	\$ _____
Total monthly expenses:	\$ <u>478.84</u>	\$ _____

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

☐ Yes ☒ No

If yes, describe on an attached sheet.

10. Have you spent -or will you be spending-any money for expenses or attorney fees in connection with this lawsuit? ☐ Yes ☒ No

If yes, how much? \$ \_\_\_\_\_

11. Provide any other information that will help explain why you cannot pay the docket fees for your appeal.  
 Although I make roughly \$400\*4.35=1,700 a month, I just spent over \$2000 (See Attachment A) to repair a car a family member is letting me drive to work. I completely drained my bank account, but for a \$1 and some change. I've been in prison for almost 20 years. I've been single all my life. I have also attached as Attachment B copy of how much my benefits are from work.

**MISC-14**

**FED. R. APP. P. WITH 5TH CIR. R. & IOPs**

12. State the [city and state] of your legal residence.  
**Granbury, Texas**

---

Your daytime phone number: (**682**) **500-2753**

Your age: **38** Your years of schooling: **12+4=16**

**MISC-14**