



Ohio Revised Code

Section 2969.24 Dismissal of inmate's action or appeal.

Effective: March 17, 1998

Legislation: Senate Bill 111 - 122nd General Assembly

(A) If an inmate files a civil action or appeal against a government entity or employee, the court in which the action or appeal is filed, on its own motion or on the motion of a party, may dismiss the civil action or appeal at any stage in the proceedings if the court finds any of the following:

- (1) The allegation of indigency in a poverty affidavit filed by the inmate is false.
- (2) The claim that is the basis of the civil action or the issues of law that are the basis of the appeal are frivolous or malicious.
- (3) The inmate filed an affidavit required by section 2969.25 or 2969.26 of the Revised Code that was materially false.

(B) For the purposes of this section, in determining whether a claim that is the basis of the civil action or the issues of law that are the basis of the appeal are frivolous or malicious, the court may consider whether any of the following applies:

- (1) The claim fails to state a claim or the issues of law fail to state any issues of law.
- (2) The claim has no arguable basis in law or fact or the issues of law have no arguable basis in law.
- (3) It is clear that the inmate cannot prove material facts in support of the claim or in support of the issues of law.
- (4) The claim that is the basis of the civil action is substantially similar to a claim in a previous civil action filed by the inmate or the issues of law that are the basis of the appeal are substantially similar to issues of law raised in a previous appeal filed by the inmate, in that the claim that is the basis of the current civil action or the issues of law that are the basis of the current appeal involve the same parties or arise from the same operative facts as the claim or issues of law in the previous civil action



or appeal.

(C) If a party files a motion requesting the dismissal of a civil action or appeal under division (A) of this section, the court shall hold a hearing on the motion. If the court raises the issue of the dismissal of a civil action or appeal under division (A) of this section by its own motion, the court may hold a hearing on the motion. If practicable, the court may hold the hearing described in this division by telephone or, in the alternative, at the state correctional institution, jail, workhouse, or violation sanction center in which the inmate is confined.

(D) On the filing of a motion for dismissal of a civil action under division (A) of this section, the court may suspend discovery relating to the civil action pending the determination of the motion.

(E) Divisions (A) to (D) of this section do not limit the authority of the court in which the civil action or appeal is filed to otherwise dismiss the civil action or appeal.