

No. 17-

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 2017

KEITH THARPE,

Petitioner,

-v-

ERIC SELLERS, WARDEN,

Respondent.

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

Petitioner, KEITH THARPE, by and through his undersigned counsel, asks leave to file the attached Petition for Writ of Certiorari to the Supreme Court of Georgia without prepayment of fees and costs, and to proceed *in forma pauperis*, pursuant to Rule 39 of the Rules of this Court.

Petitioner's Affidavit in support of this motion is attached hereto as Exhibit A.

This 2nd day of April, 2018.



BRIAN S. KAMMER
Georgia Resource Center
303 Elizabeth Street, NE
Atlanta, Georgia 30307
(404) 222-9202

COUNSEL FOR MR. THARPE

EXHIBIT A

**AFFIDAVIT OR DECLARATION
IN SUPPORT OF MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS***

I, Keith Thayer, am the petitioner in the above-entitled case. In support of my motion to proceed *in forma pauperis*, I state that because of my poverty I am unable to pay the costs of this case or to give security therefor; and I believe I am entitled to redress.

1. 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 | Spouse | You | Spouse |
| Employment | N/A | \$ _____ | \$ _____ | \$ _____ | \$ _____ |
| Self-employment | N/A | \$ _____ | \$ _____ | \$ _____ | \$ _____ |
| Income from real property (such as rental income) | N/A | \$ _____ | \$ _____ | \$ _____ | \$ _____ |
| Interest and dividends | N/A | \$ _____ | \$ _____ | \$ _____ | \$ _____ |
| Gifts | | \$ 168.00 | \$ — | \$ — | \$ — |
| Alimony | N/A | \$ _____ | \$ _____ | \$ _____ | \$ _____ |
| Child Support | N/A | \$ _____ | \$ _____ | \$ _____ | \$ _____ |
| Retirement (such as social security, pensions, annuities, insurance) | N/A | \$ _____ | \$ _____ | \$ _____ | \$ _____ |
| Disability (such as social security, insurance payments) | N/A | \$ _____ | \$ _____ | \$ _____ | \$ _____ |
| Unemployment payments | N/A | \$ _____ | \$ _____ | \$ _____ | \$ _____ |
| Public-assistance (such as welfare) | N/A | \$ _____ | \$ _____ | \$ _____ | \$ _____ |
| Other (specify): _____ | | \$ _____ | \$ _____ | \$ _____ | \$ _____ |
| Total monthly income: | | \$ 168.00 | \$ — | \$ — | \$ — |

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

| Employer | Address | Dates of Employment | Gross monthly pay |
|----------|---------|---------------------|-------------------|
| _____ | _____ | _____ | \$ _____ |
| _____ | _____ | _____ | \$ _____ |
| _____ | _____ | _____ | \$ _____ |

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.) *N/A*

| Employer | Address | Dates of Employment | Gross monthly pay |
|----------|---------|---------------------|-------------------|
| _____ | _____ | _____ | \$ _____ |
| _____ | _____ | _____ | \$ _____ |
| _____ | _____ | _____ | \$ _____ |

4. How much cash do you and your spouse have? \$ _____
 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 |
|-----------------------------|-----------------------|---------------------------|------------------------|
| <i>CA Diagnostic Prison</i> | <i>Prisoner Acct.</i> | <i>\$ 48.45 (3/24/15)</i> | <i>\$ N/A</i> |
| _____ | _____ | \$ _____ | \$ _____ |
| _____ | _____ | \$ _____ | \$ _____ |

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

- Home
Value _____
- Other real estate
Value _____
- Motor Vehicle #1
Year, make & model _____
Value _____
- Motor Vehicle #2
Year, make & model _____
Value _____
- Other assets
Description _____
Value _____

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

| Person owing you or your spouse money | Amount owed to you | Amount owed to your spouse |
|---------------------------------------|--------------------|----------------------------|
| _____ | \$ _____ | \$ _____ |
| _____ | \$ _____ | \$ _____ |
| _____ | \$ _____ | \$ _____ |

7. State the persons who rely on you or your spouse for support. *N/A*

| Name | Relationship | Age |
|-------|--------------|-------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

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, or annually to show the monthly rate.

| | You | Your spouse |
|--|------------------------------|---------------|
| Rent or home-mortgage payment (include lot rented for mobile home) | \$ <i>N/A</i> | \$ <i>N/A</i> |
| Are real estate taxes included? <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| Is property insurance included? <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| Utilities (electricity, heating fuel, water, sewer, and telephone) | \$ <i>N/A</i> | \$ <i>N/A</i> |
| Home maintenance (repairs and upkeep) | \$ <i>N/A</i> | \$ <i>N/A</i> |
| Food | \$ <i>N/A</i> | \$ <i>N/A</i> |
| Clothing | \$ <i>N/A</i> | \$ <i>N/A</i> |
| Laundry and dry-cleaning | \$ <i>N/A</i> | \$ <i>N/A</i> |
| Medical and dental expenses | \$ <i>5.00 Per Sick cert</i> | \$ <i>N/A</i> |

| | You | Your spouse |
|---|---------------|---------------|
| Transportation (not including motor vehicle payments) | \$ <u>N/A</u> | \$ <u>N/A</u> |
| Recreation, entertainment, newspapers, magazines, etc. | \$ <u>N/A</u> | \$ <u>N/A</u> |
| Insurance (not deducted from wages or included in mortgage payments) | | |
| Homeowner's or renter's | \$ <u>N/A</u> | \$ <u>N/A</u> |
| Life | \$ <u> </u> | \$ <u> </u> |
| Health | \$ <u> </u> | \$ <u> </u> |
| Motor Vehicle | \$ <u> </u> | \$ <u> </u> |
| Other: _____ | \$ <u> </u> | \$ <u> </u> |
| Taxes (not deducted from wages or included in mortgage payments) | | |
| (specify): _____ | \$ <u>N/A</u> | \$ <u>N/A</u> |
| Installment payments | | |
| Motor Vehicle | \$ <u>N/A</u> | \$ <u>N/A</u> |
| Credit card(s) | \$ <u> </u> | \$ <u> </u> |
| Department store(s) | \$ <u> </u> | \$ <u> </u> |
| Other: _____ | \$ <u> </u> | \$ <u> </u> |
| Alimony, maintenance, and support paid to others | \$ <u> </u> | \$ <u> </u> |
| Regular expenses for operation of business, profession, or farm (attach detailed statement) | \$ <u> </u> | \$ <u> </u> |
| Other (specify): _____ | \$ <u> </u> | \$ <u> </u> |
| Total monthly expenses: | \$ _____ | \$ _____ |

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 paid – or will you be paying – an attorney any money for services in connection with this case, including the completion of this form? Yes No

If yes, how much? _____

If yes, state the attorney's name, address, and telephone number:

11. Have you paid—or will you be paying—anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

Yes No

If yes, how much? _____

If yes, state the person's name, address, and telephone number:

12. Provide any other information that will help explain why you cannot pay the costs of this case.

I am a prisoner under Death Sentence.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 3-28, 2012

Kurtz Shyne

(Signature)

THIS FORM IS TO BE COMPLETED ONLY BY AN AUTHORIZED INDIVIDUAL AT THE INSTITUTION WHERE THE INMATE PLAINTIFF IS PRESENTLY INCARCERATED, OR HIS/HER DESIGNEE.

CERTIFICATION

I hereby certify that the Plaintiff herein, Keith Tharpe,
has an ~~average monthly~~ balance for the last twelve (12) months of \$ 48.45 on account at
the Georgia Diagnostic & Classification Prison
institution where confined. (If not confined for a full
twelve (12) months, specify the number of months confined. Then compute the average monthly balance
on that number of months.)

I further certify that Plaintiff likewise has the following securities according to the records of said
institution: NA

Sarah Barber
Authorized Officer of Institution

3-28-18
Date

NOTE: Please attach a copy of the prisoner's inmate account of the last 12 months, or the period of incarceration (whichever is less).

| Spendable Amount | Reserved Amount | Receipts On Hold | Funds Balance | Obligations/Court Charges |
|------------------|-----------------|------------------|---------------|---------------------------|
| \$48.45 | \$10.00 | \$0.00 | \$58.45 | \$0.00 |

RECEIPTS

| Receipt Date | Transaction ID | Receipt Type | Receipt Details | Receipt Amount |
|--------------|----------------|----------------------|--------------------------------|----------------|
| 03/21/2018 | 17929437 | JPAY DEPOSIT RECEIPT | JPAY - POPE, AUDREY - 83565998 | \$100.00 |
| 03/11/2018 | 17892470 | JPAY DEPOSIT RECEIPT | JPAY - POPE, AUDREY - 83173925 | \$100.00 |
| 02/21/2018 | 17819869 | JPAY DEPOSIT RECEIPT | JPAY - POPE, AUDREY - 82314676 | \$100.00 |
| 02/08/2018 | 17775707 | JPAY DEPOSIT RECEIPT | JPAY - POPE, AUDREY - 81842022 | \$100.00 |
| 01/23/2018 | 17718426 | JPAY DEPOSIT RECEIPT | JPAY - POPE, AUDREY - 81180376 | \$100.00 |
| 01/11/2018 | 17678011 | JPAY DEPOSIT RECEIPT | JPAY - POPE, AUDREY - 80779510 | \$100.00 |
| 12/29/2017 | 17634002 | JPAY DEPOSIT RECEIPT | JPAY - POPE, AUDREY - 80271956 | \$100.00 |
| 12/16/2017 | 17593392 | JPAY DEPOSIT RECEIPT | JPAY - HANUSZ, JOHN - 79785151 | \$45.00 |
| 12/13/2017 | 17584050 | JPAY DEPOSIT RECEIPT | JPAY - POPE, AUDREY - 79660009 | \$25.25 |
| 12/07/2017 | 17563159 | JPAY DEPOSIT RECEIPT | JPAY - POPE, AUDREY - 79423868 | \$50.00 |
| 11/25/2017 | 17519326 | JPAY DEPOSIT RECEIPT | JPAY - POPE, AUDREY - 78960355 | \$50.00 |
| 11/18/2017 | 17496209 | JPAY DEPOSIT RECEIPT | JPAY - POPE, AUDREY - 78696298 | \$50.00 |
| 11/07/2017 | 17460330 | JPAY DEPOSIT RECEIPT | JPAY - HANUSZ, JOHN - 78295402 | \$50.00 |
| 10/27/2017 | 17419966 | JPAY DEPOSIT RECEIPT | JPAY - POPE, AUDREY - 77860234 | \$50.00 |
| 10/27/2017 | 17419569 | JPAY DEPOSIT RECEIPT | JPAY - POPE, AUDREY - 77850470 | \$50.75 |
| 10/20/2017 | 17396218 | JPAY DEPOSIT RECEIPT | JPAY - POPE, AUDREY - 77613839 | \$50.00 |
| 10/15/2017 | 17378611 | JPAY DEPOSIT RECEIPT | JPAY - POPE, AUDREY - 77466992 | \$25.00 |
| 09/28/2017 | 17318152 | JPAY DEPOSIT RECEIPT | JPAY - HANUSZ, JOHN - 76815920 | \$50.00 |
| 09/10/2017 | 17260415 | JPAY DEPOSIT RECEIPT | JPAY - POPE, AUDREY - 76236181 | \$50.00 |
| 08/27/2017 | 17212403 | JPAY DEPOSIT RECEIPT | JPAY - POPE, AUDREY - 75735069 | \$50.00 |
| 07/14/2017 | 17061431 | JPAY DEPOSIT RECEIPT | JPAY - POPE, AUDREY - 74246475 | \$200.00 |
| 06/13/2017 | 16955317 | JPAY DEPOSIT RECEIPT | JPAY - POPE, AUDREY - 73184841 | \$25.00 |
| 06/09/2017 | 16941354 | JPAY DEPOSIT RECEIPT | JPAY - POPE, AUDREY - 73046791 | \$125.00 |
| 05/19/2017 | 16866625 | JPAY DEPOSIT RECEIPT | JPAY - POPE, AUDREY - 72324733 | \$125.00 |
| 04/20/2017 | 16760039 | JPAY DEPOSIT RECEIPT | JPAY - POPE, AUDREY - 71261905 | \$120.00 |
| 04/12/2017 | 16733160 | JPAY DEPOSIT RECEIPT | JPAY - HANUSZ, JOHN - 71004172 | \$40.00 |
| 03/17/2017 | 16639452 | JPAY DEPOSIT RECEIPT | JPAY - POPE, AUDREY - 70061264 | \$150.00 |
| 03/01/2017 | 16574125 | JPAY DEPOSIT RECEIPT | JPAY - POPE, AUDREY - 69421428 | \$143.00 |
| 02/08/2017 | 16498637 | JPAY DEPOSIT RECEIPT | JPAY - POPE, AUDREY - 68616056 | \$100.00 |
| 01/26/2017 | 16453373 | JPAY DEPOSIT RECEIPT | JPAY - POPE, AUDREY - 68121901 | \$100.00 |
| 01/12/2017 | 16406639 | JPAY DEPOSIT RECEIPT | JPAY - POPE, AUDREY - 67669424 | \$120.00 |
| 12/24/2016 | 16346916 | JPAY DEPOSIT RECEIPT | JPAY - HANUSZ, JOHN - 66983996 | \$50.00 |
| 12/17/2016 | 16323549 | JPAY DEPOSIT RECEIPT | JPAY - POPE, AUDREY - 66695694 | \$130.00 |

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ERIC SELLERS, WARDEN,

Respondent.

CERTIFICATE OF SERVICE

This is to certify that I have served a copy of the foregoing document this day by electronic transmission and/or U.S. Mail, on counsel for Respondent at the following address:

Sabrina Graham, Esq.
Senior Assistant Attorney General
sgraham@law.ga.gov
132 State Judicial Building
40 Capitol Square, S.W.
Atlanta, Georgia 30334-1300

This 2nd day of April, 2018.



Attorney