

No. \_\_\_\_\_

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*In the Supreme Court of the United States*

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WILLIE G. WILKS, JR.,  
*Petitioner,*

v.

STATE OF OHIO,  
*Respondent.*

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On Petition for Writ of Certiorari to  
the Supreme Court of Ohio

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**APPLICATION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS***

Petitioner Willie G. Wilks, Jr., respectfully requests leave to file the attached petition for writ of certiorari without payment of costs and to proceed *in forma pauperis*.

Petitioner, with respect to the basis of the attached petition, was granted leave to proceed *in forma pauperis* in the following courts: the Mahoning Common Pleas Court found Petitioner Wilks indigent and appointed counsel for his capital proceedings, *State v. Wilks*, Case No. 2013 CR-00540; and the Supreme Court of Ohio found Wilks indigent and appointed counsel for his direct appeal, *State v. Wilks*, 2018-Ohio-1562. Every court since Petitioner Wilks was indicted in 2013 on charges that carried the potential for the death penalty has permitted him to proceed *in forma pauperis*.

Petitioner's declaration in support of this motion is attached hereto.

Respectfully submitted,

OFFICE OF THE OHIO PUBLIC DEFENDER

/s/ Erika M. LaHote

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Death Penalty Department  
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**Counsel of Record**

/s/ Rachel Troutman

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***Counsel for Petitioner, Willie G. Wilks, Jr.***

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**AFFIDAVIT ACCOMPANYING MOTION  
FOR PERMISSION TO APPEAL *IN FORMA PAUPERIS***

**Affidavit in Support of Motion**

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.C. § 1621.)

Signed: Willie G. Wilks, Jr.

**Instructions**

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.

Date: 09.25.2018

My issues on appeal are:

- Is a defendant denied due process when a prosecutor presents and relies upon false testimony in order to secure an indictment in grand jury proceedings?
  - Is plain error review appropriate when defective jury instructions relieve the State of its burden of proof, and can a reviewing court rely on that plain error review to determine whether defense counsel's failure to object to the flawed instructions was reasonable?
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	\$ 18	\$ 0	\$ 0	\$ 0
Self-employment	\$ 0	\$ 0	\$ 0	\$ 0
Income from real property (such as rental income)	\$ 0	\$ 0	\$ 0	\$ 0
Interest and dividends	\$ 0	\$ 0	\$ 0	\$ 0
Gifts	\$ 0	\$ 0	\$ 0	\$ 0
Alimony	\$ 0	\$ 0	\$ 0	\$ 0
Child support	\$ 0	\$ 0	\$ 0	\$ 0
Retirement (such as social security, pensions, annuities, insurance)	\$ 0	\$ 0	\$ 0	\$ 0
Disability (such as social security, insurance payments)	\$ 0	\$ 0	\$ 0	\$ 0
Unemployment payments	\$ 0	\$ 0	\$ 0	\$ 0
Public-assistance (such as welfare)	\$ 0	\$ 0	\$ 0	\$ 0
Other (specify):	\$ 0	\$ 0	\$ 0	\$ 0
<b>Total monthly income:</b>	<b>\$ 18</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 0</b>

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
N/A	N/A	N/A	\$ N/A
			\$
			\$

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
N/A	N/A	N/A	\$ N/A
			\$
			\$

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
N/A	N/A	\$ N/A	\$ N/A
		\$	\$
		\$	\$

*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	Other real estate	Motor vehicle #1
(Value) \$ N/A	(Value) \$ N/A	(Value) \$ N/A
		Make and year:
		Model:
		Registration #:

<b>Motor vehicle #2</b>	<b>Other assets</b>	<b>Other assets</b>
(Value) \$     N/A	(Value) \$     N/A	(Value) \$     N/A
Make and year:		
Model:		
Registration #:		

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

<b>Person owing you or your spouse money</b>	<b>Amount owed to you</b>	<b>Amount owed to your spouse</b>
N/A	\$     N/A	\$     N/A
	\$	\$
	\$	\$
	\$	\$

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

<b>Name [or, if under 18, initials only]</b>	<b>Relationship</b>	<b>Age</b>
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.*

	<b>You</b>	<b>Your Spouse</b>
Rent or home-mortgage payment (include lot rented for mobile home)	\$     N/A	\$     N/A
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)	\$ N/A	\$ N/A
Home maintenance (repairs and upkeep)	\$ N/A	\$ N/A
Food	\$ N/A	\$ N/A
Clothing	\$ N/A	\$ N/A
Laundry and dry-cleaning	\$ N/A	\$ N/A
Medical and dental expenses	\$ N/A	\$ N/A
Transportation (not including motor vehicle payments)	\$ N/A	\$ N/A
Recreation, entertainment, newspapers, magazines, etc.	\$ N/A	\$ N/A
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's:	\$ N/A	\$ N/A
Life:	\$ N/A	\$ N/A
Health:	\$ N/A	\$ N/A
Motor vehicle:	\$ N/A	\$ N/A
Other:	\$ N/A	\$ N/A
Taxes (not deducted from wages or included in mortgage payments) (specify):	\$ N/A	\$ N/A
Installment payments		
Motor Vehicle:	\$ N/A	\$ N/A
Credit card (name):	\$ N/A	\$ N/A
Department store (name):	\$ N/A	\$ N/A
Other:	\$ N/A	\$ N/A
Alimony, maintenance, and support paid to others	\$ N/A	\$ N/A
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ N/A	\$ N/A
Other (specify):	\$ N/A	\$ N/A
<b>Total monthly expenses:</b>	<b>\$ N/A</b>	<b>\$ N/A</b>

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.*

I am imprisoned on Ohio's Death Row, housed at the Chillicothe Correctional Institution.  
I have been in prison since 2013.

12. *State the city and state of your legal residence.*

*Your daytime phone number:* (\_\_\_\_) \_\_\_\_\_ N/A

*Your age:* \_\_\_\_\_ 46      *Your years of schooling:* \_\_\_\_\_ 10th or 11th grade/GED

*Last four digits of your social-security number:* \_\_\_\_\_ 9740