

No. 18-6966

IN THE
SUPREME COURT OF THE UNITED STATES

ORIGINAL

Supreme Court, U.S.
FILED

NOV 26 2018

OFFICE OF THE CLERK

In re Tina Lynne Wagoner — PETITIONER
(Your Name)

VS.

State of New York Court of Appeals
Cattaraugus County Court: — RESPONDENT(S)
Lori Pettit-Rieman, Ronald D. Ploetz

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The petitioner asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

Please check the appropriate boxes:

☒ Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s): for original action's appeal, in the 4th Dept's Court

Supreme Court State of New York Appellate Division Fourth Department

☐ Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

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

☒ Petitioner's affidavit or declaration is **not** attached because the court below appointed counsel in the current proceeding, and:

☐ The appointment was made under the following provision of law: _____
22 NYCRR 1000.3(b)(1), or

☒ a copy of the order of appointment is appended.

Tina Lynne Wagoner
(Signature)

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

KA 16-02366

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

TINA L. WAGONER, DEFENDANT-APPELLANT.

Inmate # 16-G-0694 BEDFORD HILLS CORRECTIONAL FACILITY

Indictment No: 15-048

An application having been made for an order granting leave to prosecute an appeal from a judgment of the Cattaraugus County Court, rendered August 3, 2016, as a poor person, and for other relief,

It is hereby ORDERED that said application is granted to the extent that the appeal herein may be prosecuted upon one record as defined by 22 NYCRR 1000.3 (c) (1) and ten copies of the appellant's brief, reproduced in accordance with 22 NYCRR 1000.4 (f), and

TIMOTHY P. MURPHY, ESQ.
LEGAL AID BUREAU OF BUFFALO
290 MAIN ST STE 350
BUFFALO NY 14202

is hereby assigned as counsel to conduct the appeal; and

It is further ORDERED that said record and briefs are to be filed and served within 120 days of the filing of the transcripts with the Cattaraugus County Clerk's Office; and

It is further ORDERED that the Clerk of Cattaraugus County is hereby directed to provide TIMOTHY P. MURPHY, ESQ. with copies of all papers and transcripts of stenographic or audiotaped minutes, if any, of the proceedings upon which the appeal is based.

Entered: January 12, 2017

FRANCES E. CAFARELL, Clerk

Supreme Court
APPELLATE DIVISION
Fourth Judicial Department
Clerk's Office, Rochester, N.Y.

I, FRANCES E. CAFARELL, Clerk of the Appellate Division of the Supreme Court in the Fourth Judicial Department, do hereby certify that this is a true copy of the original order, now on file in this office.



IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court at the City of Rochester, New York, this **JAN 12 2017**

Frances E. Cafarell

Clerk

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

I, Tina Lynne Wagoner, 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	\$ <u>zero</u>	\$ _____	\$ <u>zero</u>	\$ _____
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)	\$ _____	\$ _____	\$ _____	\$ _____
Unemployment payments	\$ _____	\$ _____	\$ _____	\$ _____
Public-assistance (such as welfare)	\$ _____	\$ _____	\$ _____	\$ _____
Other (specify): _____	\$ _____	\$ _____	\$ _____	\$ _____
Total monthly income:	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____

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

Employer	Address	Dates of Employment	Gross monthly pay
<i>none</i>			\$
			\$
			\$

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
			\$
			\$
			\$

4. How much cash do you and your spouse have? \$ *0*
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>none</i>		\$	\$
		\$	\$
		\$	\$

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

☐ Home
Value *0*

☐ Other real estate
Value *0*

☐ Motor Vehicle #1
Year, make & model *0*
Value

☐ Motor Vehicle #2
Year, make & model *0*
Value

☐ Other assets
Description *0*
Value

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

None

\$ 0

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

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

Name

Relationship

Age

Myself Tina

Self

55

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.

Rent or home-mortgage payment
(include lot rented for mobile home)

Are real estate taxes included? ☐ Yes ☐ No

Is property insurance included? ☐ Yes ☐ No

Utilities (electricity, heating fuel,
water, sewer, and telephone)

Home maintenance (repairs and upkeep)

Food

Clothing

Laundry and dry-cleaning

Medical and dental expenses

You

Your spouse

Does not apply

\$ zero

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ <u>zero</u>	\$ <u>/</u>
Recreation, entertainment, newspapers, magazines, etc.	\$ <u>/</u>	\$ <u>/</u>
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ <u>/</u>	\$ <u>/</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>/</u>	\$ <u>/</u>
Installment payments		
Motor Vehicle	\$ <u>/</u>	\$ <u>/</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:	\$ <u>0</u>	\$ <u>/</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? *Not unless I'm exonerated or conviction is reversed*

☐ 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.

State pay will not cover it and I have no property or savings.

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

Executed on: *November 26*, 20*18*

[Signature]
(Signature)