

NO. 19-5990

IN THE
SUPREME COURT OF THE UNITED STATES

David Alan Vogel, Petitioner

v.

United States of America, Respondent

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. Petition has previously been granted leave to proceed in forma pauperis in his original criminal case in the U.S. District Court, Eastern District of Texas, criminal case No. 4:08cr-0024-MAC-AM-1. That court also found him to be indigent and appointed counsel to represent him. Subsequently, in the appeal of that case, he was granted in forma pauperis status in his 5th circuit appeal (No. 11-4033 United States v. Vogel). Petitioner has been incarcerated since the time of that appeal. Petitioner's declaration in support of this motion is attached hereto.

Respectfully submitted,

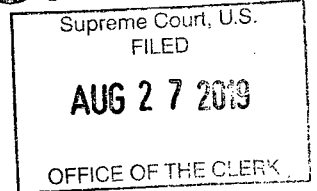
David A. Vogel
David A. Vogel
Reg. # 09472049
Federal Medical Center

Camp I Unit

Box 879

Ayer, Mass

ORIGINAL



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SEP - 4 2019 32
OFFICE OF THE CLERK
SUPREME COURT, U.S.

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

I, DAVID A. Vogel 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>0</u>	\$ <u>NA</u>	\$ <u>0</u>	\$ <u>NA</u>
Self-employment	\$ <u>0</u>	\$ <u>NA</u>	\$ <u>0</u>	\$ <u>NA</u>
Income from real property (such as rental income)	\$ <u>0</u>	\$ <u>NA</u>	\$ <u>0</u>	\$ <u>NA</u>
Interest and dividends	\$ <u>0</u>	\$ <u>NA</u>	\$ <u>0</u>	\$ <u>NA</u>
Gifts	\$ <u>0</u>	\$ <u>NA</u>	\$ <u>0</u>	\$ <u>NA</u>
Alimony	\$ <u>0</u>	\$ <u>NA</u>	\$ <u>0</u>	\$ <u>NA</u>
Child Support	\$ <u>0</u>	\$ <u>NA</u>	\$ <u>0</u>	\$ <u>NA</u>
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>0</u>	\$ <u>NA</u>	\$ <u>0</u>	\$ <u>NA</u>
Disability (such as social security, insurance payments)	\$ <u>0</u>	\$ <u>NA</u>	\$ <u>0</u>	\$ <u>NA</u>
Unemployment payments	\$ <u>0</u>	\$ <u>NA</u>	\$ <u>0</u>	\$ <u>NA</u>
Public-assistance (such as welfare)	\$ <u>0</u>	\$ <u>NA</u>	\$ <u>0</u>	\$ <u>NA</u>
Other (specify): <u>Prison</u>	\$ <u>8.54</u>	\$ <u>0</u>	\$ <u>8.54</u>	\$ <u>NA</u>
Income incarcerated				
Total monthly income:	\$ <u>8.54</u>	\$ <u>0</u>	\$ <u>8.54</u>	\$ <u>NA</u>

* See attached
EXHIBIT A

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

Employer	Address	Dates of Employment	Gross monthly pay
* Incarcerated	since	2009	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____

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
No Spouse			\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____

4. How much cash do you and your spouse have? \$ NO BANK ACCOUNTS
 Below, state any money you or your spouse have in bank accounts or in any other financial institution.

See ATTACHED Exhibit A - Inmate Account

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

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

Home
 Value Do NOT own Home

Other real estate
 Value NONE

Motor Vehicle #1
 Year, make & model None
 Value _____

Motor Vehicle #2
 Year, make & model None
 Value _____

Other assets
 Description See ATTACHED Exhibit A
 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
<u>No One</u>	<u>owes me</u>	<u>Money</u>
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____

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

Name	Relationship	Age
<u>Incarcerated</u>	<u>- government</u>	<u>supports me</u>
_____	_____	_____
_____	_____	_____

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
<u>* Incarcerated - no living expenses</u>		<u>NO spouse</u>
Rent or home-mortgage payment (include lot rented for mobile home)	\$ <u>0</u>	\$ <u>NA</u>
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)	\$ <u>0</u>	\$ <u>NA</u>
Home maintenance (repairs and upkeep)	\$ <u>0</u>	\$ <u>NA</u>
Food	\$ <u>0</u>	\$ <u>NA</u>
Clothing	\$ <u>0</u>	\$ <u>NA</u>
Laundry and dry-cleaning	\$ <u>0</u>	\$ <u>NA</u>
Medical and dental expenses	\$ <u>0</u>	\$ <u>NA</u>

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ 0	\$ NA
Recreation, entertainment, newspapers, magazines, etc.	\$ 0	\$ NA
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ 0	\$ NA
Life	\$ 0	\$ NA
Health	\$ 0	\$ NA
Motor Vehicle	\$ 0	\$ NA
Other: _____	\$ 0	\$ NA
Taxes (not deducted from wages or included in mortgage payments)		
(specify): _____	\$ 0	\$ NA
Installment payments		
Motor Vehicle	\$ 0	\$ NA
Credit card(s)	\$ 0	\$ NA
Department store(s)	\$ 0	\$ NA
Other: _____	\$ 0	\$ NA
Alimony, maintenance, and support paid to others	\$ 0	\$ NA
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ 0	\$ NA
Other (specify): _____	\$ 0	\$ NA
Total monthly expenses:	\$ 0	\$ NA

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.

See Exhibit A - millions of dollars in debt. Government seized assets

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

Executed on: September 10, 2019

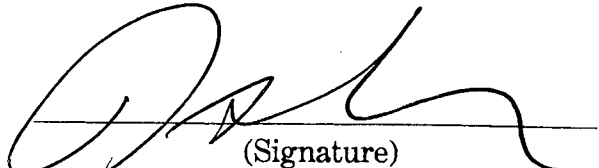

(Signature)

EXHIBIT A

I am currently incarcerated. This Writ is a continuation of my criminal case (cited in my Motion to proceed In Forma Pauperis). Rule 39 of the Supreme Court states that if the Court below (in this case the 5th Circuit) appointed counsel to an indigent party, no affidavit or declaration of financial condition is required. Subject to the Criminal Justice Act, 18 U. S. C. 3006 A, I was appointed counsel in my original criminal case. I had appointed counsel subject to the same provision of law during my appeal in the 5th Circuit (the Court below). In the interest of caution, I am including the foregoing affidavit as part of my Motion to proceed In Forma Pauperis), albeit it might not be required.

My prison income is approximately \$8.54 per month. I have no bank accounts. My bank accounts were seized by the government. I have no living expenses as I am incarcerated. Any personal property I collected over the years, prior to my incarceration, is negligible - - and more that offset by extreme debt. I owed close to \$250,000 in back taxes prior to my incarceration. And, there is a \$23,000,000 judgment against me. Moreover, interest and penalties on the back taxes bring my tax debt currently to an estimate of \$1,000,000.

Attached is a copy of my INMATE ACCOUNT which the 5th circuit

Required.
I swear under penalties of perjury this is true and correct
David A. Vozel 9-10-19
David

Continuation of Exhibit A - INMATE ACCOUNT

Inmate Statement



Inmate Reg #: 09472049
Inmate Name: VOGEL, DAVID
Report Date: 09/10/2019
Report Time: 8:27:46 AM

Current Institution: Devens FMC
Housing Unit: DEV-I-A
Living Quarters: 101-032U

<u>Alpha Code</u>	<u>Date/Time</u>	<u>Reference#</u>	<u>Payment#</u>	<u>Receipt#</u>	<u>Transaction Type</u>	<u>Transaction Amount</u>	<u>Encumbrance Amount</u>	<u>Ending Balance</u>
DEV	9/10/2019	47			Sales	(\$4.30)		\$1,320.14
	7:53:44 AM							
DEV	9/6/2019	UIPP0819			Payroll - IPP	\$8.64		\$1,324.44
	1:16:49 PM							
DEV	8/19/2019	98			Sales	(\$8.90)		\$1,315.80
	12:06:24 PM							
DEV	8/9/2019	UIPP0719			Payroll - IPP	\$7.68		\$1,324.70
	1:31:44 PM							
DEV	7/30/2019	34			Sales	(\$4.30)		\$1,317.02
	7:45:45 AM							
DEV	7/23/2019	59			Sales	(\$3.60)		\$1,321.32
	7:54:57 AM							
DEV	7/15/2019	8			Sales	(\$10.45)		\$1,324.92
	10:58:39 AM							
DEV	7/13/2019	TL0713			TRUL Withdrawal	(\$2.00)		\$1,335.37
	9:20:20 PM							
DEV	7/9/2019	45			Sales	(\$4.70)		\$1,337.37
	7:35:49 AM							
DEV	7/2/2019	UIPP0619			Payroll - IPP	\$9.60		\$1,342.07
	12:57:54 PM							
DEV	6/26/2019	TL0626			TRUL Withdrawal	(\$2.00)		\$1,332.47
	6:18:42 AM							
DEV	6/23/2019	TL0623			TRUL Withdrawal	(\$2.00)		\$1,334.47
	9:39:52 AM							
DEV	6/20/2019	TL0620			TRUL Withdrawal	(\$2.00)		\$1,336.47
	6:13:04 PM							
DEV	6/18/2019	35			Sales	(\$2.20)		\$1,338.47
	8:00:08 AM							
DEV	6/18/2019	34			Sales	(\$3.40)		\$1,340.67
	7:59:48 AM							
DEV	6/7/2019	UIPP0519			Payroll - IPP	\$7.68		\$1,344.07
	12:12:06 PM							
DEV	5/13/2019	63			Sales	(\$7.65)		\$1,336.39
	11:58:06 AM							
DEV	5/9/2019	UIPP0419			Payroll - IPP	\$7.68		\$1,344.04
	1:07:56 PM							
DEV	4/23/2019	30			Sales	(\$6.25)		\$1,336.36
	9:57:10 AM							
DEV	4/16/2019	42			Sales	(\$4.95)		\$1,342.61
	7:52:24 AM							
DEV	4/9/2019	UIPP0319			Payroll - IPP	\$11.52		\$1,347.56
	1:38:47 PM							
DEV	4/9/2019	28			Sales	(\$2.10)		\$1,336.04
	9:23:30 AM							
DEV	4/2/2019	3			Sales	(\$4.40)		\$1,338.14
	7:37:02 AM							
DEV	3/8/2019	UIPP0219			Payroll - IPP	\$13.44		\$1,342.54
	12:24:44 PM							
DEV	3/4/2019	68			Sales	(\$1.70)		\$1,329.10
	12:33:11 PM							
DEV	2/19/2019	10			Sales	(\$8.20)		\$1,330.80
	7:45:31 AM							
DEV	2/12/2019	47			Sales	(\$5.65)		\$1,339.00
	8:43:44 AM							
DEV	2/8/2019	UIPP0119			Payroll - IPP	\$29.92		\$1,344.65
	1:04:03 PM							
DEV	2/4/2019	37			Sales	(\$5.45)		\$1,314.73
	8:44:44 AM							
DEV	1/31/2019	56			Sales	\$80.95		\$1,320.18
	1:00:38 PM							
DEV	1/31/2019	55			Sales	(\$80.95)		\$1,239.23
	9:04:44 AM							
DEV		68			Sales	(\$2.50)		\$1,320.18

J. Cappitella

SEP 10 2019

InmateStatementCombined

	1/29/2019							
	12:25:52 PM							
DEV	1/15/2019	26		Sales		(\$18.00)		\$1,322.68
	8:24:56 AM							
DEV	1/10/2019	UIPP1218		Payroll - IPP		\$34.00		\$1,340.68
	12:53:43 PM							
DEV	12/31/2018	27		Sales		(\$6.45)		\$1,306.68
	7:45:14 AM							
DEV	12/26/2018	69		Sales		(\$8.30)		\$1,313.13
	9:08:56 AM							
DEV	12/17/2018	104		Sales		(\$7.40)		\$1,321.43
	8:57:59 AM							
DEV	12/7/2018	UIPP1118		Payroll - IPP		\$27.20		\$1,328.83
	12:37:53 PM							
DEV	12/3/2018	64		Sales		(\$14.00)		\$1,301.63
	11:55:09 AM							
DEV	11/29/2018	14		Sales		(\$80.95)		\$1,315.63
	10:33:01 AM							
DEV	11/27/2018	61		Sales		(\$6.10)		\$1,396.58
	9:07:48 AM							
DEV	11/19/2018	2		Sales		(\$2.10)		\$1,402.68
	7:59:38 AM							
DEV	11/13/2018	6		Sales		(\$13.45)		\$1,404.78
	8:50:44 AM							
DEV	11/9/2018	UIPP1018		Payroll - IPP		\$34.00		\$1,418.23
	12:37:47 PM							
DEV	11/6/2018	10		Sales		(\$3.15)		\$1,384.23
	6:50:54 AM							
DEV	10/23/2018	1		Sales		(\$5.45)		\$1,387.38
	7:19:44 AM							
DEV	10/15/2018	3		Sales		(\$16.65)		\$1,392.83
	9:13:10 AM							
DEV	10/10/2018	44		Sales		(\$54.74)		\$1,409.48
	8:32:48 AM							
DEV	10/4/2018	UIPP0918		Payroll - IPP		\$31.28		\$1,464.22
	12:45:48 PM							
DEV	10/4/2018	TL1004		TRUL Withdrawal		(\$2.00)		\$1,432.94
	11:56:45 AM							

12

Total Transactions: 52

Totals: (\$114.15) \$0.00

Current Balances

<u>Alpha Code</u>	<u>Available Balance</u>	<u>Pre-Release Balance</u>	<u>Debt Encumbrance</u>	<u>SPO Encumbrance</u>	<u>Other Encumbrance</u>	<u>Outstanding Instruments</u>	<u>Administrative Holds</u>	<u>Account Balance</u>
DEV	\$320.14	\$1,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,320.14
Totals:	\$320.14	\$1,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,320.14

Other Balances

<u>National 6 Months Deposits</u>	<u>National 6 Months Withdrawals</u>	<u>Natioanl 6 Months Avg Daily Balance</u>	<u>Local Max Balance - Prev 30 Days</u>	<u>Average Balance - Prev 30 Days</u>	<u>Commissary Restriction Start Date</u>	<u>Commissary Restriction End Date</u>
\$52.80	\$75.20	\$1,333.57	\$1,324.70	\$1,319.14	N/A	N/A

DECLARATION IN SUPPORT OF MOTION FOR LEAVE
TO PROCEED IN FORMA PAUPERIS

I, David A. Vogel am the Petitioner in this case. In support of my motion to proceed in forma pauperis I state:

(1) I am an incarcerated prisoner and have been incarcerated since May of 2009.

(2) The instant case and issue herein is a continuation of my legal fight against the original criminal charges that lead to my incarceration.

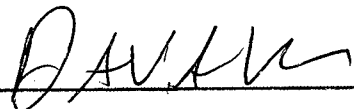
(3) Regarding that criminal case, the Eastern District of Texas, U. S. District Court, appointed counsel to represent me after finding I was unable to afford an attorney (a CJA attorney was appointed).

(4) In that original criminal case (No. 4:08 cr-0024-MAC-AM-1), the District Court granted in forma pauperis status.

(5) My appeal to the 5th Circuit regarding this same case (No. 11-4033 United States v. Vogel) was also proceeded in forma pauperis.

(6) My CJA attorney in that case also filed a writ of certiorari with this Supreme Court. The writ was denied, but in forma pauperis status was requested.

I SWEAR UNDER PENALTIES OF PERJURY the contents of this Declaration are true and correct.

By: 

David A. Vogel

Dated: 8-26-19