

19-6469 ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

October Term 2019

KENNETH N MCFALL

VS.

THE STATE OF INDIANA

MOTION AND AFFIDAVIT FOR LEAVE TO PROCEED IN FORMAS PAUPERS
ON WRIT of CERTIORARI

I, Kenneth N McFall *pro-se*, declare that I am the Petitioner in the above-entitled proceeding; that, in support of my request to proceed without prepayment of fees, I declare that I am unable to pay the fees for these proceedings or give security at this time. Therefore and that I am entitled to the relief sought in the complaint accompanying this motion.

In support of this application, I assert the following facts under penalty of perjury:

1. Petitioner is incarcerated at:

BRANCHVILLE CORRECTION FACILITY
21390 OLD STATE ROAD #37
BRANCHVILLE INDIANA 47514

2. Petitioner has been incarcerated continuously for the past 18 months in relation to the case at hand.

3. Petitioner has exhausted his life savings in the retaining of trial defense attorneys and lower court appeals attorneys. Petitioner receives a fixed income of monthly retirement payments that go toward the finance charges and repayments of loans against his home and property in which he has 0 equity if he were to sale the property.

4. Due to his incarceration petitioner is having issues with finances and seeks to have the filing fee waived permanently, reduced or set aside for later payment.

See the attached Affidavit of Indigency, completed by the institution of incarceration, to be used in further support of this motion. And if necessary to figure the initial percentage (%) of filing fees due by petitioner to file this action, if this court does not grant petitioner his requested Pauper Status in this cause of action.

WHEREFORE; petitioner prays this Court grant him Pauper Status; or any other relief this Court deems just and proper in the instant cause.

Respectfully submitted,

Petitioner, Pro se

Branchville Correctional Facility
21390 Old State Rd. 37
Branchville In. 47514

AFFIDAVIT OF INDIGENCE

Comes now, The Petitioner: Kenneth N McFall, D.O.C. # 269514, is an indigent prisoner presently housed at the Branchville Correctional Facility, 21390 Old State Road, Branchville, Indiana 47514. Petitioner states that within the meaning of **I.C. §35-33-7-6**, he does not possess any property, monies or bonds, and is also incapable of retaining the services of an attorney, pursuant to **I.C. §34-10-1-1**.

Kenneth McFall 269514
Petitioner's Signature

Name:
Branchville Correctional Facility
21390 Old State Rd. 37
Branchville In. 47514

INMATE'S TRUST ACCOUNT

The undersigned, Superintendent or his duly authorized designee at the Branchville Correctional Facility, 21390 Old State Road 37 Branchville, Indiana 47514. I hereby verify that the above named offender, has as of this 19th day of September 19, 2019 2019 a trust fund balance of: \$ 115.70 on his account.

Stephanie L. Chapman
Superintendent or Authorized Designee

NOTARY PUBLIC

STATE OF INDIANA)
) SS:
COUNTY OF PERRY)

Before me, Kenneth McFall, a Notary Public in and for Perry County, State of Indiana, Personally appeared Kenneth McFall, D.O.C. # 269514, and he being first duly sworn upon his oath, says that the foregoing statements are true.

My Commission Expires:

04 10 2027
Month Day Year

Perry
County of Residence

Stephanie L. Chapman
Notary signature
Stephanie L. Chapman
Printed name

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

I, Kenneth N. McFall, 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>Q</u>	\$ <u>N/A</u>	\$ <u>Q</u>	\$ <u>N/A</u>
Self-employment	\$ <u>Q</u>	\$ <u>N/A</u>	\$ <u>Q</u>	\$ <u>N/A</u>
Income from real property (such as rental income)	\$ <u>Q</u>	\$ <u>N/A</u>	\$ <u>Q</u>	\$ <u>N/A</u>
Interest and dividends	\$ <u>Q</u>	\$ <u>N/A</u>	\$ <u>Q</u>	\$ <u>N/A</u>
Gifts	\$ <u>Q</u>	\$ <u>N/A</u>	\$ <u>Q</u>	\$ <u>N/A</u>
Alimony	\$ <u>Q</u>	\$ <u>N/A</u>	\$ <u>Q</u>	\$ <u>N/A</u>
Child Support	\$ <u>Q</u>	\$ <u>N/A</u>	\$ <u>Q</u>	\$ <u>N/A</u>
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>2600.00</u>	\$ <u>N/A</u>	\$ <u>2,600.00</u>	\$ <u>N/A</u>
Disability (such as social security, insurance payments)	\$ <u>Q</u>	\$ <u>N/A</u>	\$ <u>Q</u>	\$ <u>N/A</u>
Unemployment payments	\$ <u>Q</u>	\$ <u>N/A</u>	\$ <u>Q</u>	\$ <u>N/A</u>
Public-assistance (such as welfare)	\$ <u>Q</u>	\$ <u>N/A</u>	\$ <u>Q</u>	\$ <u>N/A</u>
Other (specify): <u>Q</u>	\$ <u>Q</u>	\$ <u>N/A</u>	\$ <u>Q</u>	\$ <u>N/A</u>
Total monthly income:	\$ <u>2,600</u>	\$ <u>N/A</u>	\$ <u>2,600</u>	\$ <u>N/A</u>

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
<u>incarcerated</u>	<u>N/A</u>	<u>N/A</u>	\$ <u>Q</u> \$ <u>Q</u> \$ <u>Q</u>

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
<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	\$ <u>Q</u> \$ <u>Q</u> \$ <u>Q</u>

4. How much cash do you and your spouse have? \$ insure due to being incarcerated
Below, state any money you or your spouse have in bank accounts or in any other financial institution. I have lost control of finances and access to accounts.

Type of account (e.g., checking or savings)	Amount you have	Amount your spouse has
<u>Checking</u>	\$ <u>not sure</u> \$ <u> </u> \$ <u> </u>	\$ <u> </u> \$ <u> </u> \$ <u> </u>

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

Home

Value 75,000.00/owed

Other real estate

Value _____

Motor Vehicle #1

Year, make & model 2008 Chevy Truck
Value 1,750.00 190,000.00 miles

Motor Vehicle #2

Year, make & model _____
Value _____

Other assets

Description None (lost everything due to incarceration)
Value None

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

7. State the persons who rely on you or your spouse for support. For minor children, list initials instead of names (e.g. "J.S." instead of "John Smith").

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)	\$ 650.00	\$ N/A
Are real estate taxes included? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Is property insurance included? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ 450.00	\$ N/A
Home maintenance (repairs and upkeep)	\$ 225.00	\$ N/A
Food	\$ 300.00	\$ N/A
Clothing	\$ 0	\$ N/A
Laundry and dry-cleaning	\$ 0	\$ N/A
Medical and dental expenses	\$ 450.00	\$ N/A

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ 0	\$ N/A
Recreation, entertainment, newspapers, magazines, etc.	\$ 20.00	\$ N/A
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ 110.00	\$ N/A
Life	\$ 150.00	\$ N/A
Health	\$ 250.00	\$ N/A
Motor Vehicle	\$ 0	\$ N/A
Other: _____	\$ 0	\$ N/A
Taxes (not deducted from wages or included in mortgage payments)		
(specify): _____	\$ 0	\$ N/A
Installment payments		
Motor Vehicle	\$ 0	\$ N/A
Credit card(s)	\$ 0	\$ N/A
Department store(s)	\$ 0	\$ N/A
Other: _____	\$ 0	\$ N/A
Alimony, maintenance, and support paid to others	\$ 0	\$ N/A
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ 0	\$ N/A
Other (specify): _____	\$ 0	\$ N/A
Total monthly expenses:	<u>\$ 2585.00</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?

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 incarcerated I do not have access to the money at this time and am willing to be open to any payment schedule or payment this court feels appropriate and acceptable (I do not have access to 300.00 at this time to cover filing fee due to my incarceration)

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

Executed on: October 21st 2019, 2019

Kenneth McJall
(Signature)