

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

GARY R. TOMEY, II,
Petitioner,
v.
UNITED STATES OF AMERICA,
Respondent.

**On Petition for Writ of Certiorari
to the Eleventh Circuit Court of Appeals**

MOTION TO PROCEED *IN FORMA PAUPERIS*

MICHAEL UFFERMAN
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COUNSEL FOR THE PETITIONER

The Petitioner, GARY R. TOMEY, II, prays the Court for leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*. The Petitioner's indigency affidavit is attached to this pleading.

Respectfully submitted,

/s/ Michael Ufferman

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COUNSEL FOR THE PETITIONER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY a true and correct copy of the foregoing instrument was
furnished to:

Office of the United States Attorney
111 North Adams Street, 4th Floor
Tallahassee, Florida 32301

Solicitor General of the United States
Room 5614, Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

by U.S. mail delivery on December 23, 2019.

Respectfully submitted,

/s/ Michael Ufferman

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

I, Gary Toney^r, 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>0.00</u>	\$ <u>10,406</u>	\$ <u>0</u>	\$ <u>9583</u>
Self-employment	\$ <u>0.00</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Income from real property (such as rental income)	\$ <u>0.00</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Interest and dividends	\$ <u>0.00</u>	\$ <u>114</u>	\$ <u>0</u>	\$ <u>114</u>
Gifts	\$ <u>0.00</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Alimony	\$ <u>0.00</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Child Support	\$ <u>0.00</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>0.00</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Disability (such as social security, insurance payments)	\$ <u>0.00</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Unemployment payments	\$ <u>0.00</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Public-assistance (such as welfare)	\$ <u>0.00</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Other (specify): _____	\$ <u>0.00</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Total monthly income:	\$ <u>0.00</u>	\$ <u>10520</u>	\$ <u>0</u>	\$ <u>9702</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
			\$
			\$
			\$

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
West Florida Med Ctr Clin	8333 N. Davis Hwy Pensacola, FL 32514	5/12/2014 - present	\$ 9583
			\$
			\$

4. How much cash do you and your spouse have? \$ 6409
Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Type of account (e.g., checking or savings)	Amount you have	Amount your spouse has
Checking	\$ <u>9,921.00</u>	\$ <u>1,101</u>
Savings	\$ <u>0</u>	\$ <u>3,389</u>
Investment	\$ <u>0</u>	\$ <u>1,919</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 \$288,000.00

☐ Other real estate
Value _____

☒ Motor Vehicle #1
Year, make & model 2016 Jeep Wrangler
Value 16,000.00

☒ Motor Vehicle #2
Year, make & model 2012 Ford Expedition
Value 8,000.00

☐ Other assets
Description Vehicle #3, 2010 Lexus
Value 8,500.00

Vehicle #4, 2016 Volkswagen Jetta
Value \$11,000.00

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>0</u>	\$ <u>0</u>
_____	\$ <u>0</u>	\$ <u>0</u>
_____	\$ <u>0</u>	\$ <u>0</u>

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
<u>GT</u>	<u>Son</u>	<u>17</u>
<u>KI</u>	<u>Daughter</u>	<u>16</u>
<u>MT</u>	<u>Daughter</u>	<u>15</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
Rent or home-mortgage payment (include lot rented for mobile home)	\$ <u>0</u>	\$ <u>1350</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>975</u>
Home maintenance (repairs and upkeep)	\$ <u>0</u>	\$ <u>193</u>
Food	\$ <u>0</u>	\$ <u>500</u>
Clothing	\$ <u>0</u>	\$ <u>400</u>
Laundry and dry-cleaning	\$ <u>0</u>	\$ <u>150</u>
Medical and dental expenses	\$ <u>0</u>	\$ <u>200</u>

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ <u>0</u>	\$ <u>400</u>
Recreation, entertainment, newspapers, magazines, etc.	\$ <u>0</u>	\$ <u>400</u>
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ <u>0</u>	\$ <u>(Unmortgage)</u>
Life	\$ <u>0</u>	\$ <u>250</u>
Health	\$ <u>0</u>	\$ <u>245</u>
Motor Vehicle	\$ <u>0</u>	\$ <u>436</u>
Other: _____	\$ <u>0</u>	\$ <u>0</u>
Taxes (not deducted from wages or included in mortgage payments)		
(specify): _____	\$ <u>0</u>	\$ <u>0</u>
Installment payments		
Motor Vehicle	\$ <u>0</u>	\$ <u>920</u>
Credit card(s)	\$ <u>0</u>	\$ <u>1000</u>
Department store(s)	\$ <u>0</u>	\$ <u>0</u>
Other: _____	\$ <u>0</u>	\$ <u>0</u>
Alimony, maintenance, and support paid to others	\$ <u>0</u>	\$ <u>0</u>
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ <u>0</u>	\$ <u>0</u>
Other (specify): _____	\$ <u>0</u>	\$ <u>0</u>
Total monthly expenses:	\$ <u>0</u>	\$ <u>7219</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? 2,500

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

Executed on: 10/22, 2019

Gary Toney
(Signature)