

19-7389  
1/21/20

19-7389

ORIGINAL

IN THE  
SUPREME COURT OF THE UNITED STATES

NICOLE Peña McCREA — PETITIONER  
(Your Name)

VS.

D.C. Office of Human Rights, et al — RESPONDENT(S)

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):  
\_\_\_\_\_  
\_\_\_\_\_

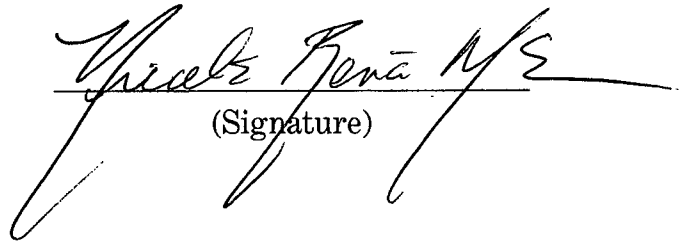
☒ Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

☒ 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: \_\_\_\_\_, or

☐ a copy of the order of appointment is appended.

  
(Signature)

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

I, NICOLE Rene McCREA, 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>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Self-employment	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Income from real property (such as rental income)	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Interest and dividends	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Gifts	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Alimony	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Child Support	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>2,558<sup>00</sup></u>	\$ <u>N/A</u>	\$ <u>2,558<sup>00</sup></u>	\$ <u>N/A</u>
Disability (such as social security, insurance payments)	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Unemployment payments	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Public-assistance (such as welfare)	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Other (specify): <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
<b>Total monthly income:</b>	\$ <u>2,558<sup>00</sup></u>	\$ <u>N/A</u>	\$ <u>2,558<sup>00</sup></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
Unemployment	N/A	N/A	\$ N/A
Unemployment	N/A	N/A	\$ N/A
for past four and half years	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
N/A	N/A	N/A	\$ N/A
N/A	N/A	N/A	\$ N/A

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.

Type of account (e.g., checking or savings)	Amount you have	Amount your spouse has
PNC Checking acct	\$ 205.20	\$ N/A
N/A	\$ N/A	\$ N/A
N/A	\$ N/A	\$ N/A

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

☐ Home Value N/A ☐ Other real estate Value N/A

☒ Motor Vehicle #1 Year, make & model 2009 Nissan Maxima Value \$2,000 ☐ Motor Vehicle #2 Year, make & model N/A Value N/A

☐ Other assets Description N/A Value N/A

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>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
<u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
<u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</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>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>N/A</u>	<u>N/A</u>	<u>N/A</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>265<sup>00</sup></u>	\$ <u>N/A</u>
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)	\$ <u>0</u>	\$ <u>N/A</u>
Home maintenance (repairs and upkeep)	\$ <u>0</u>	\$ <u>N/A</u>
Food	\$ <u>300<sup>00</sup></u>	\$ <u>N/A</u>
Clothing	\$ <u>110<sup>22</sup></u>	\$ <u>N/A</u>
Laundry and dry-cleaning	\$ <u>40<sup>22</sup></u>	\$ <u>N/A</u>
Medical and dental expenses	\$ <u>470<sup>22</sup></u>	\$ <u>N/A</u>

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ <u>600<sup>00</sup></u>	\$ <u>N/A</u>
Recreation, entertainment, newspapers, magazines, etc.	\$ <u>0</u>	\$ <u>N/A</u>
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ <u>0</u>	\$ <u>N/A</u>
Life	\$ <u>0</u>	\$ <u>N/A</u>
Health	\$ <u>0</u>	\$ <u>N/A</u>
Motor Vehicle	\$ <u>98<sup>00</sup></u>	\$ <u>N/A</u>
Other: <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Taxes (not deducted from wages or included in mortgage payments)		
(specify): <u>IRS Payment Plan</u>	\$ <u>25<sup>00</sup></u>	\$ <u>N/A</u>
Installment payments		
Motor Vehicle	\$ <u>0</u>	\$ <u>N/A</u>
Credit card(s)	\$ <u>0</u>	\$ <u>N/A</u>
Department store(s)	\$ <u>0</u>	\$ <u>N/A</u>
Other: <u>Student Loans</u>	\$ <u>129<sup>02</sup></u>	\$ <u>N/A</u>
<u>Cell phone</u>	\$ <u>115<sup>00</sup></u>	\$ <u>N/A</u>
Alimony, maintenance, and support paid to others	\$ <u>0</u>	\$ <u>N/A</u>
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ <u>0</u>	\$ <u>N/A</u>
Other (specify): <u>Avg Pro se Administrative cost for filing fees, copies, service and research</u>	\$ <u>300<sup>00</sup> - 700<sup>00</sup></u>	\$ <u>N/A</u>
<b>Total monthly expenses:</b>	<b>(Avg. between) \$ <u>2452<sup>00</sup> - 2852<sup>00</sup></u></b>	\$ <u>N/A</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.

*Please see attached sheets 1-4*

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? N/A

If yes, state the attorney's name, address, and telephone number:

*N/A*

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? N/A

If yes, state the person's name, address, and telephone number:

*N/A*

12. Provide any other information that will help explain why you cannot pay the costs of this case.

*Please see attached sheets 1-2*

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

Executed on: January 21, 2020

*Frederick Peña*  
(Signature)

**9. Do you expect any major changes to your monthly income or expenses....:**

**a.** My *Pro Se* administrative costs for filing fees, copy, research and serving

documents averages between \$300.00 to \$700.00, depending on the number of Orders/ Motions/responses I am Ordered or required to submit for my various cases across several jurisdictions. In addition to this case from the District of Columbia Court of Appeals, I have other judicial and/or administrative actions, to correct and/or mitigate harms related to this action in the: United States Court of Appeals for the Fourth Circuit("Court of Appeals-4<sup>th</sup> Circuit"); United States District Court for the District of Columbia("United States District Court-DC"); the United States District Court for the District of Maryland ("United States District Court-MD"); Superior Court of the District of Columbia-Tax Division ("Superior Court -Tax Division"); Superior Court of the District of Columbia-Civil Division ("Superior Court -Civil Division"); Circuit Court of Charles County ("Circuit Court"); District Court of Charles County ("District Court").

**b.** I am currently negotiating forbearance and/or reductions of my monthly payments for the following creditors: I owe over \$100,000.00 to Navient for student loans. I now pay \$129.00/month for my private student loans and I am currently negotiating a deferment for my federal student loans. I owe Capitol One \$2,506.50. I made several attempts to negotiate reduced payments with Capitol One. Capitol One refused all offers within my budget imposing a minimum that I still could not afford to pay. Capitol One began proceedings against me in the



Small Claims Division of the Superior Court of the District of Columbia. Capitol One dismissed its proceedings, without prejudice, against me in the Superior Court of the District of Columbia- Small Claims Division after I was able to attain pro bono legal aide through a debt program. I was advised that the dismissal without prejudice means that Capitol One can and may re-open the litigation within the next year. I owe Pentagon Federal Credit Union \$1,779.00. I owe Home Depot \$2,119.00. I make monthly payments of \$25.00 to the IRS for my 2016 through 2018 tax liability. I am currently seeking review before the DCCA to set a payment plan of \$23.00/month for my 2017 DC tax liability.

c. In 2016, the DCOTR denied, without explanation my Low Income Claim and subsequent appeal of this denial for my 2016 State Tax liability. I was ordered to submit \$823.74 to the DC Treasurer by July 17, 2017 or face significant penalties and/or liens. On **July 13, 2017**, as ordered "or face significant penalties and/or liens", I submitted \$823.74 to the DC Treasurer, via Certified Mail. On **July 14, 2017**, I was notified that the Certified Mail containing my \$823.74 payment had been delivered to the DC Treasurer. On **July 25, 2017** the DCOTR sent out a "Notice of Collection Action": fraudulently alleging that the \$823.74 had NOT been paid; that I now owed \$949.94; that they have certified actions to seize my bank accounts, refunds and administrative payments that I may have or am due.





I believe and expect the DCOTR, in furtherance of District of Columbia's post-employment retaliation and ongoing, open-ended scheme to defraud under color of law, to continue its fraudulent assessment of fines, interest and fees, "as authorized by District of Columbia Code § 47-4405".

I believe and expect the DCOTR, in furtherance of the District of Columbia's post-employment retaliation and ongoing, open-ended scheme to defraud, under color of law, to utilize its fraudulently obtained certification to file claims with Federal and State agencies to capture, garnish and/or place a lien against my current retirement income identified in item #1.

I believe and expect the DCOTR, in furtherance of the District of Columbia's post-employment retaliation and ongoing, open-ended scheme to defraud, under color of law, will utilize its fraudulently obtained certification to seize and/or freeze my bank accounts.

My 2016 tax liability is currently before the SCDC -Tax Division. I am now forced to contest the DCOTR's unwarranted and fraudulent penalties, interest and fines attached to my 2016 state tax liability, "while continuing to assess further penalties, interest and fines for 2016, in addition to penalties, interest and fines for 2016. In August 2019, upon Motion from the DCOTR and Order by the Superior Court-Tax Division, several claims associated with the action before the Superior



Court-Tax Division were severed and transferred to the Superior Court-Civil Division in September 2019. As of January 17, 2020, I was assured, once again, that the severed claims are in the process of being docketed before the SCDC-Civil Division.

d. I am one of the hundreds of homeowners that had a mortgage loan through Wells Fargo, who subsequently had their homes foreclosed upon due to Wells Fargo's acknowledged use of known faulty programs to deny modifications under the Home Affordable Modification Program ("HAMP") for nearly a decade. My claims against Wells Fargo are before the Circuit Court of Charles County ("Circuit Court"); the District Court of Charles County ("District Court") and; the United States District Court for the District of Maryland ("United States District Court-MD"). When I began my appeal in the Circuit Court, I petitioned the Circuit Court to establish a payment plan, in lieu of a supersedes bond, to cover the property taxes, Home Owners Association ("HOA") fees, and other expenses attached to the foreclosed property. Wells Fargo and/or the Substitute Trustees OPPOSED my petition for a payment plan in lieu of a supersedes bond, to cover the property taxes, HOA fees, and other expenses attached to the property, during the appeal. The Circuit Court DENIED my petition to establish a payment plan, in lieu of a supersedes bond, to cover the property taxes, HOA fees, and other expenses attached to the property, during the appeal.



I am now forced to address the Tax Division of the Maryland Government for property taxes in arrears. The Tax Division of the Maryland Government is attaching liens against me for over \$5,000 of property tax in arrears and are threatening to sell the property at a tax auction, in spite of the fact that the property is currently the subject of litigation in the Circuit Court; the District Court; and the United States District Court-MD.

The HOA filed a claim against me in the District Court of Charles County, Maryland after Wells Fargo and/or the Substitute Trustees had NOT paid the property taxes and/or the HOA dues for the property since 2017. The HOA had alleged that the HOA fees accrued after the foreclosure sale were incurred by me, despite the fact that immediately after the foreclosure sale, without a Court Order, Wells Fargo and/or the Substitute Trustees broke into the property, removed and/or discarded my clothing and property and changed the locks.

**12. Other Information that will help explain my inability to pay the costs for this case...:**

a. I have difficulty making my monthly payment for all of my monthly expenses, because my expenses exceed my income. On January 09, 2018 my vehicle was involved in a motor vehicle accident ("MVA"). My vehicle was totaled and I sustained significant multi-joint injuries. On April 07, 2018 I sustained significant multi-joint injuries, in addition to aggravating the multi-joint injuries sustained in the January 09, 2018 MVA, when I was one of four people physically assaulted in



a public library. The expenses of recovery, and /or travel to doctors' appointments and therapy, due to the motor vehicle accident and the physical assault have added significantly to my monthly debts.

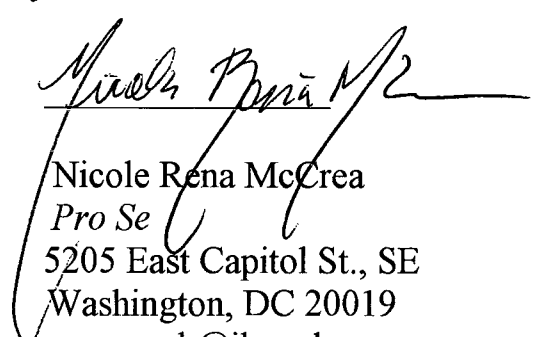
On July 22, 2019, I was involved in a car accident. I am still dealing with the financial circumstances associated with the loss of use of my car and the acquisition and repairing of another car for alternate transportation.

**b.** I am currently attending an average of four (4) medical doctors' appointments per month, with her Primary Care Provider ("PCP"); Complementary and Alternative Medicine Practitioners and/or different Medical Specialist two to three times per week; due to the traumas sustained on January 09, 2018 and April 07, 2018. I will be resuming water therapy two to three times per week. I will be resuming Physical Therapy after I complete medical and/or surgical intervention for an injury that is currently being reassessed for additional interventions. I continue to get medical interventions to alleviate and/or manage symptoms of Post-Traumatic Stress Syndrome ("PTSD"). I attend and/or will resume within the next year, physical therapy and/or a form of therapy, Physical; Complementary and Alternative; or Cognitive Behavioral, Monday–Friday.

**c.** Subsequent to my Involuntary Non-POD Injury Disability Retirement, my former employer, District of Columbia, contrary to the Supreme Court's Daubert

factors, effected unsubstantiated assertions of PERMANENT DISABILITY through fraudulently skewed and/or suppressed presentation of assessment data, restrictions in the form of Temperament Codes that restricts and/or a muted rehabilitative assessment of the my qualifications, earning abilities and vocational abilities, far below my education level, cognition and reasoning. In addition, the unsubstantiated, prejudicial and discriminatory assertion of imminent threat to self and others, has defamed my character, effectively causing harm in my community, in my profession, and in my ability to seek gainful employment.

Executed on: January 21, 2020



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