

No.

October Term, 2019

In the
Supreme Court of the United States

Lary James Plumlee,
Petitioner,

v.

Isidro Baca, Warden,
Respondent.

On Petition for Writ of Certiorari from the
Nevada Court of Appeals

Motion for Leave to Proceed *In Forma Pauperis*

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Attorneys for Petitioner
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Pursuant to Supreme Court Rule 39.1, Petitioner Lary James Plumlee requests leave to file the attached Petition for Writ of Certiorari without prepayment of costs and to proceed *in forma pauperis*. Plumlee has been granted leave to do so in state and federal court. In state court, counsel was appointed to represent Plumlee at trial, on direct appeal, and in state post-conviction proceedings. In his federal habeas corpus proceedings, the United States District Court granted Plumlee's motion for appointment of counsel under the Criminal Justice Act and appointed the Federal Public Defender to represent him. *See Plumlee v. Ignacio, Warden, et. al.* No. 3:00-cv-00244-DWH-ECR, ECF No. 3, 23.

Plumlee was unable attached a signed financial declaration. As explained in the accompanying declaration from Jonathan M. Kirshbaum, counsel for Plumlee attempted to obtain a signed financial declaration from Plumlee. Plumlee sent two signed, completed declarations to counsel over the past month, as far back as April 25. However, due to the pandemic, there has been a significant delay in counsel's incoming mail. As a result, counsel has yet to receive either of the signed declarations. Currently, the Nevada Department of Corrections is not allowing in-person visits at the prison. As a substitute, counsel filled out the financial declaration using information he obtained from Plumlee over the phone on May 14, 2020. Plumlee declared to counsel under penalty of perjury that the information he was giving counsel over the phone was true and accurate. Counsel has attached to this motion the unsigned declaration with the information counsel obtained from Plumlee.

Dated: May 18, 2020.

Respectfully submitted,

/s/ Jonathan M. Kirshbaum
JONATHAN M. KIRSHBAUM
Assistant Federal Public Defender

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

I, Lary Plumlee, 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>150⁰⁰</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>150⁰⁰</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>N.D.O.C.</u>	<u>1721 Snyder</u>	<u>12/2012 - 2020</u>	<u>\$ 100 150⁰⁰</u>
<u>Silver State</u>	<u>Carson City</u>		\$
<u>Industries</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
			\$
			\$
			\$

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
<u>Irrevocable Savings Account</u>	<u>\$ 400⁰⁰</u>	<u>\$ 0</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 _____

☐ Other real estate
Value _____

☐ Motor Vehicle #1
Year, make & model _____
Value _____

☐ Motor Vehicle #2
Year, make & model _____
Value _____

☐ Other assets
Description _____
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> D </u>	\$ <u> </u>	\$ <u> </u>
<u> </u>	\$ <u> </u>	\$ <u> </u>
<u> </u>	\$ <u> </u>	\$ <u> </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> D </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </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>150⁰⁰</u>	\$ <u> </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> </u>	\$ <u> </u>
Home maintenance (repairs and upkeep)	\$ <u> </u>	\$ <u> </u>
Food	\$ <u>150⁰⁰</u>	\$ <u> </u>
Clothing	\$ <u> </u>	\$ <u> </u>
Laundry and dry-cleaning	\$ <u> </u>	\$ <u> </u>
Medical and dental expenses	\$ <u> </u>	\$ <u> </u>

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ _____	\$ _____
Recreation, entertainment, newspapers, magazines, etc.	\$ _____	\$ _____
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ _____	\$ _____
Life	\$ _____	\$ _____
Health	\$ _____	\$ _____
Motor Vehicle	\$ _____	\$ _____
Other: _____	\$ _____	\$ _____
Taxes (not deducted from wages or included in mortgage payments)		
(specify): _____	\$ _____	\$ _____
Installment payments		
Motor Vehicle	\$ _____	\$ _____
Credit card(s)	\$ _____	\$ _____
Department store(s)	\$ _____	\$ _____
Other: _____	\$ _____	\$ _____
Alimony, maintenance, and support paid to others	\$ _____	\$ _____
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ _____	\$ _____
Other (specify): <u> D </u>	\$ _____	\$ _____
Total monthly expenses:	\$ <u>150⁰⁰</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? _____

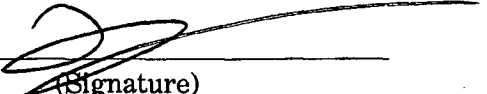
If yes, state the person's name, address, and telephone number:

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

I am incarcerated. All money I have is from working in the prison work program.

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

Executed on: May 5, 20 20


(Signature)