

19-8796
IN THE

SUPREME COURT OF THE UNITED STATES

October 2020 TERM

No. 17-30677

ORIGINAL

Gene Rodgers - PETITIONER

vs.

FILED
MAY 26 2020

OFFICE OF THE CLERK
SUPREME COURT, U.S.

Jefferson Parish Sheriff Office et al.
DARRELL VANNOY, STATE OF LOUISIANA - 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*.

Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s):

United States District Court Eastern District Louisi
United States Court of Appeals Fifth Circuit.

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.

Gene Rodgers
(Signature)

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

I, John Rodriguez, 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	\$ 0	\$ N/A	\$ 0	\$ N/A
Self-employment	\$ 0	\$ N/A	\$ 0	\$ N/A
Income from real property (such as rental income)	\$ 0	\$ N/A	\$ 0	\$ N/A
Interest and dividends	\$ 0	\$ N/A	\$ 0	\$ N/A
Gifts	\$ 0	\$ N/A	\$ 0	\$ N/A
Alimony	\$ 0	\$ N/A	\$ 0	\$ N/A
Child Support	\$ 0	\$ N/A	\$ 0	\$ N/A
Retirement (such as social security, pensions, annuities, insurance)	\$ 0	\$ N/A	\$ 0	\$ N/A
Disability (such as social security, insurance payments)	\$ 0	\$ N/A	\$ 0	\$ N/A
Unemployment payments	\$ 0	\$ N/A	\$ 0	\$ N/A
Public-assistance (such as welfare)	\$ 0	\$ N/A	\$ 0	\$ N/A
Other (specify): _____	\$ 0	\$ N/A	\$ 0	\$ N/A
Total monthly income:	\$ 0	\$ N/A	\$ 0	\$ N/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
<u>None</u>	<u>None</u>	<u>None</u>	<u>\$ None</u>
			<u>\$</u>
			<u>\$</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>\$ N/A</u>
			<u>\$</u>
			<u>\$</u>

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.

Financial institution	Type of account	Amount you have	Amount your spouse has
<u>None</u>	<u>None</u>	<u>\$ 0</u>	<u>\$ 0</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 N/A

Other real estate
Value N/A

Motor Vehicle #1
Year, make & model N/A
Value _____

Motor Vehicle #2
Year, make & model N/A
Value _____

Other assets
Description N/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
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<u>None</u>	<u>\$ 0</u>	<u>\$ 0</u>
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	<u>\$ _____</u>	<u>\$ _____</u>
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	<u>\$ _____</u>	<u>\$ _____</u>
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7. State the persons who rely on you or your spouse for support.

Name	Relationship	Age
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<u>None</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 (included lot rented for mobile home)	<u>\$ 0</u>	<u>\$ N/A</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>\$ N/A</u>
Home maintenance (repairs and upkeep)	<u>\$ 0</u>	<u>\$ N/A</u>
Food	<u>\$ 0</u>	<u>\$ N/A</u>
Clothing	<u>\$ 0</u>	<u>\$ N/A</u>
Laundry and dry-cleaning	<u>\$ 0</u>	<u>\$ N/A</u>
Medical and dental expenses	<u>\$ 0</u>	<u>\$ N/A</u>

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

9. Do you expect any major changes to your monthly income or expense 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. N/A

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

Executed on 5-14-, 2020

Sonya Proelss
(Signature)

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 17-30677

GARY DANIEL RODGERS,

Plaintiff-Appellant

v.

R. MCINTYRE, Deputy; JAMAL PERRIER, Deputy; J. BOUDOIN, Deputy;
NEWELL NORMAND, Sheriff,

Defendants-Appellees

Appeal from the United States District Court
for the Eastern District of Louisiana

O R D E R:

Gary Daniel Rodgers, Louisiana prisoner # 700016, moves to proceed in forma pauperis (IFP) on appeal. He seeks to challenge the district court's dismissal after a bench trial of his 42 U.S.C. § 1983 lawsuit. The district court denied his motion for leave to proceed IFP and certified that the appeal was not taken in good faith. By moving to proceed IFP, Rodgers is challenging the district court's certification. *Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997).

Rodgers must show that he is financially eligible and that he will present a nonfrivolous issue for appeal. *See Carson v. Polley*, 689 F.2d 562, 586 (5th Cir. 1982). Because he has made the requisite showing, *see Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 336-44 (1948); *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983), Rodgers's IFP motion is GRANTED.

No. 17-30677

In order to conduct proper appellate review of Rodgers's issues, this court requires the trial transcript. *See Harvey v. Andrist*, 754 F.2d 569, 571 (5th Cir. 1985). Therefore, Rodgers's motion for the production of the November 29, 2016 trial transcripts at government expense under 28 U.S.C. § 753(f) is GRANTED. *See FED. R. APP. P. 10(e)(2)(C); In re GHR Energy Corp.*, 791 F.2d 1200, 1202 (5th Cir. 1986).

The clerk is DIRECTED to establish a briefing schedule once the record has been supplemented with the transcripts. Rodgers's motion for the appointment of counsel is DENIED. *See Ulmer v. Chancellor*, 691 F.2d 209, 212 (5th Cir. 1982).



W. EUGENE DAVIS
UNITED STATES CIRCUIT JUDGE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

GARY DANIEL RODGERS

VERSUS

**JEFFERSON PARISH SHERIFF OFFICE,
DEPUTY R. MCINTYRE JR., DEPUTY J.
PERRIER, DEPUTY J. BOUDOIN**

CIVIL ACTION

NO. 15-2642

SECTION "F"(2)

PAUPER ORDER

Considering Plaintiff's application to proceed as a pauper, accordingly,

Plaintiff's application is denied since plaintiff has sufficient funds to pay the \$350.00 filing fee and \$50.00 administrative fee, for a total fee of \$400.00.

IT IS ORDERED that plaintiff is allowed to proceed as a pauper in this action. **IT IS FURTHER ORDERED** that the sum of \$ -0- (zero), as an initial partial payment of the filing fee, is to be forwarded to the Clerk of Court by the Sheriff, Warden, or authorized prison official when funds exist in the inmate's prisoner account.

IT IS FURTHER ORDERED that, after payment of the initial filing fee, plaintiff is required to make monthly payments of 20 percent of the preceding month's income credited to his account until the full amount of the filing fee is paid. The Sheriff, Warden, or authorized prison official **SHALL** forward such payments from the inmate's account to the Clerk of Court, 500 Poydras Street, Rm. C-151, New Orleans, LA 70130, each time the amount in the inmate's account exceeds \$10 until the balance of the \$350.00 filing fee is paid.

IT IS FURTHER ORDERED that, if plaintiff is transferred to another facility or released from custody, the Sheriff, Warden, or authorized prison official shall notify the Court of the inmate's new facility or forwarding address within 30 days of the inmate's transfer or release.

Plaintiff's application is denied because plaintiff has not submitted "a certified copy of the trust fund account (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint" as required by 28 U.S.C. § 1915 (a)(2).

- The Clerk is directed to withhold issuance of summons until further order of the Court.
- The motion is DENIED as MOOT; the filing fee has already been paid.

New Orleans, Louisiana, this 17th day of July, 2015.



JOSEPH C. WILKINSON, JR.
UNITED STATES MAGISTRATE JUDGE

IF GRANTED Clerk to serve by mail:

Financial

Warden,
Elayn Hunt Correctional Center
6925 Highway 74
St. Gabriel, LA 70776
ATTN: Inmate Banking