

No. 19A979

20-5684

IN THE

SUPREME COURT OF THE UNITED STATES

FRANK SCHWINDLER — PETITIONER
(Your Name)

VS.

ORIGINAL

SHAY HATCHER, WARDEN — 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):

U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA; U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF GEORGIA; U.S. COURT OF APPEALS FOR THE ELEVENTH 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.

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.

Frank Schwindler

(Signature)

SUPREME COURT
UNITED STATES OF AMERICA

Frank Joseph Schwindler,
Petitioner,

v.

Docket No. _____

Shay Hatcher, Warden, et al.,
Respondent.

VERIFIED MOTION TO PROCEED IN FORMA PAUPERIS

COMES NOW PETITIONER, FRANK JOSEPH SCHWINDLER, pro se, and pursuant to 28 USC §1746, and Supreme Court Rule 39, certifies under penalty of perjury that each fact set forth within is true and accurate upon personal knowledge, and moves the Court to grant leave to proceed in this Court in forma pauperis, showing:

1. Schwindler is indigent. He has had no income from any source since February 16, 1999. He was appointed counsel for trial and direct appeal in the State Courts, and he has been granted leave to proceed in forma pauperis in both the Northern District of Georgia and Southern District of Georgia, as well as previously having been appointed counsel for 42 USC § 1983 action and appeal (non criminal justice act appointments) in both the Northern District of Georgia and 11th Circuit Court of Appeals.

2. Due to the Covid 19 virus lockdown and quarantine of Phillips State Prison, Schwindler has been unable to obtain a proper Form 4 for making this motion.

Sworn to this 12th day of April, 2020.

Frank Joseph Schwindler

FRANK JOSEPH SCHWINDLER
323208/A-2-12-8
PHILLIPS STATE PRISON
2989 W. ROCK QUARRY RD.
BUFDORD, GA 30519-4118

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

I, FRANK SCHWINDLER, 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>1</u>	\$ <u>0</u>	\$ <u>1</u>
Income from real property (such as rental income)	\$ <u>0</u>	\$ <u>1</u>	\$ <u>0</u>	\$ <u>1</u>
Interest and dividends	\$ <u>0</u>	\$ <u>1</u>	\$ <u>0</u>	\$ <u>1</u>
Gifts	\$ <u>0</u>	\$ <u>1</u>	\$ <u>0</u>	\$ <u>1</u>
Alimony	\$ <u>0</u>	\$ <u>1</u>	\$ <u>0</u>	\$ <u>1</u>
Child Support	\$ <u>0</u>	\$ <u>1</u>	\$ <u>0</u>	\$ <u>1</u>
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>0</u>	\$ <u>1</u>	\$ <u>0</u>	\$ <u>1</u>
Disability (such as social security, insurance payments)	\$ <u>0</u>	\$ <u>1</u>	\$ <u>0</u>	\$ <u>1</u>
Unemployment payments	\$ <u>0</u>	\$ <u>1</u>	\$ <u>0</u>	\$ <u>1</u>
Public-assistance (such as welfare)	\$ <u>0</u>	\$ <u>1</u>	\$ <u>0</u>	\$ <u>1</u>
Other (specify): _____	\$ <u>0</u>	\$ <u>1</u>	\$ <u>0</u>	\$ <u>1</u>
Total monthly income:	\$ <u>0</u>	\$ <u>1</u>	\$ <u>0</u>	\$ <u>1</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/A</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>			\$
			\$
			\$

4. How much cash do you and your spouse have? \$ 8
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>N/A</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
<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>	_____	_____
_____	_____	_____
_____	_____	_____

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>N/A</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)	\$ _____	\$ _____
Home maintenance (repairs and upkeep)	\$ _____	\$ _____
Food	\$ _____	\$ _____
Clothing	\$ _____	\$ _____
Laundry and dry-cleaning	\$ _____	\$ _____
Medical and dental expenses	\$ _____	\$ _____

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ <u><u>N/A</u></u>	\$ <u><u>N/A</u></u>
Recreation, entertainment, newspapers, magazines, etc.	\$ <u><u></u></u>	\$ <u><u></u></u>
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ <u><u></u></u>	\$ <u><u></u></u>
Life	\$ <u><u></u></u>	\$ <u><u></u></u>
Health	\$ <u><u></u></u>	\$ <u><u></u></u>
Motor Vehicle	\$ <u><u></u></u>	\$ <u><u></u></u>
Other: _____	\$ <u><u></u></u>	\$ <u><u></u></u>
Taxes (not deducted from wages or included in mortgage payments)		
(specify): _____	\$ <u><u></u></u>	\$ <u><u></u></u>
Installment payments		
Motor Vehicle	\$ <u><u></u></u>	\$ <u><u></u></u>
Credit card(s)	\$ <u><u></u></u>	\$ <u><u></u></u>
Department store(s)	\$ <u><u></u></u>	\$ <u><u></u></u>
Other: _____	\$ <u><u></u></u>	\$ <u><u></u></u>
Alimony, maintenance, and support paid to others	\$ <u><u></u></u>	\$ <u><u></u></u>
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ <u><u></u></u>	\$ <u><u></u></u>
Other (specify): _____	\$ <u><u></u></u>	\$ <u><u></u></u>
Total monthly expenses:	\$ <u><u></u></u>	\$ <u><u></u></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'VE BEEN INCARCERATED FOR 21 YEARS

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

Executed on: 11 MAY, 2020

Frank Schwandt

(Signature)