

20-6176

No. 20-1507

IN THE
SUPREME COURT OF THE UNITED STATES

Brandon J. Weathers,
Petitioner,

v.
Scott Frakes,
Respondent.

On Writ of Certiorari To The United States
Court of Appeals For The Eighth Circuit

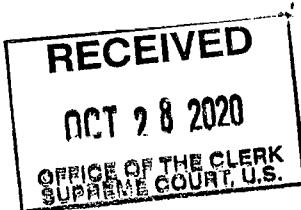
MOTION FOR LEAVE TO PROCEED IN FORMA
PAUPERIS

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 Federal District Court of Nebraska. Petitioner's declaration in support is attached hereto.

B. Weathers

Brandon J. Weathers
Pro se petitioner,
P. O. Box 22800-
Lincoln, NE

68542-2800



**FORM 4 AFFIDAVIT ACCOMPANYING MOTION FOR
PERMISSION TO APPEAL IN FORMA PAUPERIS**

United States District Court for the _____ District of Nebraska

Brandon J. Neathers
v.
Scott Frakes

Case No. 20-1507

Affidavit in Support of Motion

I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury under United States laws that my answers on this form are true and correct. (28 U.S.C. § 1746; 18 U.S.C. § 1621.)

Instructions

Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write in that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.

Signed: B. Neathers

Date: 9-28-20

My issues on appeal are: Substitution of Counsel and Waiver of Counsel

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>27.23</u>	\$ <u>N/A</u>	\$ <u>27.23</u>	\$ <u>N/A</u>
Self-employment	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Income from real property (such as rental income)	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Interest and dividends	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Gifts	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Alimony	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Child support	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Disability (such as social security, insurance payments)	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Unemployment payments	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Public-assistance (such as welfare)	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Other (specify): _____	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Total monthly income:	\$ <u>27.23</u>	\$ <u>N/A</u>	\$ <u>27.23</u>	\$ <u>N/A</u>

MISC-14

2. List your 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
State of Nebraska, Institutional Labor	P.O. Box 22800 Lincoln, Ne 68542	Start 6-5-16 to present	27.23

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

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>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

If you are a prisoner, seeking to appeal a judgment in a civil action or proceeding, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

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 (Value)
<u>N/A</u>	<u>N/A</u>	Make & year: <u>N/A</u> Model: <u>N/A</u> Registration # <u> </u>

MISC-14

Motor vehicle #2 (Value)

Other assets (Value)

Other assets (Value)

Make & year:

Model: N/AN/AN/A

Registration #:

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

N/AN/AN/A

7. State the persons who rely on you or your spouse for support.

Name (or, if under 18, initials only)

Relationship

Age

Brandon Weathers Jr.Son16Brenden WeathersSon15Laila WeathersDaughter13

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, semiannually, or annually to show the monthly rate.

Rent or home-mortgage payment (include lot rented for mobile home)

You

Your Spouse

\$ 0\$ N/AAre real-estate taxes included? Yes NoIs property insurance included? Yes No

Utilities (electricity, heating fuel, water, sewer, and Telephone)

\$ 0\$ N/A

Home maintenance (repairs and upkeep)

\$ 0\$ N/A

Food

\$ 0\$ N/A

Clothing

\$ 0\$ N/A

Laundry and dry-cleaning

\$ 0\$ N/A

Medical and dental expenses

\$ 0\$ N/A

Transportation (not including motor vehicle payments)

\$ 0\$ N/A

Recreation, entertainment, newspapers, magazines, etc.

\$ 0\$ N/A

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Insurance (not deducted from wages or included in Mortgage payments)	\$ <u>0</u>	\$ <u>N/A</u>
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>0</u>	\$ <u>N/A</u>
Other: _____	\$ <u>0</u>	\$ <u>N/A</u>
Taxes (not deducted from wages or included in Mortgage payments) (specify): _____	\$ <u>0</u>	\$ <u>N/A</u>
Installment payments	\$ <u>0</u>	\$ <u>N/A</u>
Motor Vehicle	\$ <u>0</u>	\$ <u>N/A</u>
Credit card (name): _____	\$ <u>0</u>	\$ <u>N/A</u>
Department store (name): _____	\$ <u>0</u>	\$ <u>N/A</u>
Other: <u>Child Support</u>	\$ <u>50.00</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>0</u>	\$ <u>N/A</u>
Total monthly expenses:	\$ <u>50.00</u>	\$ <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.

10. Have you spent -or will you be spending-any money for expenses or attorney fees in connection with this lawsuit? Yes No

If yes, how much? \$ _____

11. Provide any other information that will help explain why you cannot pay the docket fees for your appeal.

I'm incarcerated and only make 27.23 and I'm only allowed \$10.00 per month due to child support.

12. State the [city and state] of your legal residence.

Lincoln, Nebraska

Your daytime phone number: (N/A) N/A

Your age: 14 Your years of schooling: Eleventh Grade

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Good Life. Great Mission.

DEPT OF CORRECTIONAL SERVICES

CERTIFICATION
STATE OF NEBRASKA
DEPARTMENT OF CORRECTIONAL SERVICES

I, Gretchen Heinzman, Controller, hereby certify that the attached is a true and correct copy of the monthly institutional account transactions for, Brandon J. Weathers, #83564 for the six month period of March 2020 through August 2020, consisting of six page(s). Accountings for fractional portions of months are not available.

This certification is provided pursuant to Local Rule 52 of the U.S. District Court of the District of Nebraska, regarding in Forma Pauperis filings.

Dated this 23th day of September 2020.

Controller

(SEAL)

Scott R. Frakes, Director

Dept of Correctional Services

P.O. Box 94661 Lincoln, NE 68509-4661
Phone: 402-471-2654 Fax: 402-479-5623

corrections.nebraska.gov

STATE OF NEBRASKA
 DEPARTMENT OF CORRECTIONAL SERVICES
 ACCOUNTING
 INSTITUTIONAL ACCOUNT STATEMENT
 FOR THE MONTH ENDING MARCH 31, 2020

PAGE 1

ID NUMBER	NAME	INST DATE REC	REC RELEASE	LAST CTR LOCALITY	ACTIVITY		
83564	WEATHERS/BRANDON J	02/18/16		LCC A2 U06	03/23/20		
SSN	PREV ID	GATE	HR ASSIGNMENT	DATE	IST CNF MNT RST SAV SEC SUS LEG		
505256763	54726	.00	AD HSNG A	11/27/17	O O O O O O		
					N N N N N N		
PROL VIOL	DET	BEGIN BAL	BEG UNFR BAL	CURR FR BAL	CURR UNFR BAL	CURR BAL	
N		.78	.13	6.65	.10	6.75	
TRAN	TRAN	DOC	FROZEN				
CODE	DATE	NUMBER	DESCRIPTION	AMOUNT	DEBIT	CREDIT	BALANCE
01301	031720		PAY 376 53 FEB 2020			27.83	27.96
01104	031720		S-ORDR CI155228	13.92			14.04
01105	031720		C-ORDR 4:17CV3024	4.04			10.00
09801	031720	015144	STORE 03 CHARGES	7.50			2.50
09801	031720	015146	STORE 03 CHARGES	2.40			.10
02362	032320	032320	6 MO STATEMENT SNTX2				.10
09241	032320	441104	COURTNEY HARRIS		10.00		10.10
01105	032320		C-ORDR 4:17CV3024	2.00			8.10
01105	032320		C-ORDR 4:17CV3034	2.00			6.10
01012	032320		FRZ/UNFRZ SUSPENSE	6.00			.10

STATE OF NEBRASKA
 DEPARTMENT OF CORRECTIONAL SERVICES
 ACCOUNTING
 INSTITUTIONAL ACCOUNT STATEMENT
 FOR THE MONTH ENDING APRIL 30, 2020

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ID	INST	REC	LAST					
NUMBER NAME	DATE REC	RELEASE	CTR LOCALITY ACTIVITY					
83564 WEATHERS/BRANDON J	02/18/16		LCC A2 U06 04/16/20					
SSN PREV ID GATE HR ASSIGNMENT DATE	IST	CNF	MNT	RST	SAV	SEC	SUS	LEG
505256763 54726 .00 AD HSNG A 11/27/17	O	O		O	O	O	O	
	N	N		N	N	N	N	
PROL VIOL DET BEGIN BAL BEG UNFR BAL Curr FR BAL Curr UNFR BAL Curr BAL								
N 6.75 .10 6.65 .00 6.65								
TRAN TRAN DOC	FROZEN							
CODE DATE NUMBER DESCRIPTION	AMOUNT	DEBIT	CREDIT	BALANCE				
01301 041620 PAY 376 53 MAR 2020			26.62	26.72				
01104 041620 S-ORDR CI155228		13.31		13.41				
01105 041620 C-ORDR 4:17CV3024		3.41		10.00				
09801 041620 013848 STORE 03 CHARGES		10.00		.00				

STATE OF NEBRASKA
DEPARTMENT OF CORRECTIONAL SERVICES
ACCOUNTING
INSTITUTIONAL ACCOUNT STATEMENT
FOR THE MONTH ENDING MAY 31,

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ID					INST	REC			LAST			
NUMBER	NAME			DATE REC	RELEASE	CTR	LOCALITY	ACTIVITY				
83564	WEATHERS/BRANDON J					02/18/16						
SSN	PREV ID	GATE	HR	ASSIGNMENT	DATE	IST	CNF	MNT	RST	SAV		
505256763	54726	.00	AD	HSNG A	11/27/17	O	O			O		
						N	N			N		
										N N		
PROL	VIOL	DET	BEGIN	BAL	BEG UNFR	BAL	CURR FR	BAL	CURR UNFR	BAL	CURR BAL	
			N	6.65		.00		1.50		.00	1.50	
TRAN	TRAN	DOC					FROZEN					
CODE	DATE	NUMBER	DESCRIPTION				AMOUNT	DEBIT		CREDIT	BALANCE	
01012	051520		FRZ/UNFRZ SUSPENS				3.61-				3.61	
09702	051520		LCC/POSTAGE					1.61			2.00	
09706	051520		LCC/COPIES					2.00			.00	
01012	051520		FRZ/UNFRZ SUSPENS				3.00-				3.00	
09702	051520		LCC POSTAGE					1.00			2.00	
09706	051520		LCC COPIES					1.10			.90	
09706	051520		LCC COPIES					.90			.00	
01301	051820		PAY 376 * APR 2020					84.00			84.00	
01104	051820		S-ORDR CI155228					42.00			42.00	
01105	051820		C-ORDR 4:17CV3024					16.80			25.20	
01105	051820		C-ORDR 4:17CV3034					15.20			10.00	
01301	051820		PAY 376 53 APR 2020					14.52			24.52	
01104	051820		S-ORDR CI155228					7.26			17.26	
01105	051820		C-ORDR 4:17CV3024					2.90			14.36	
01105	051820		C-ORDR 4:17CV3034					2.90			11.46	
01012	051820		FRZ/UNFRZ SUSPENSE				1.46				10.00	
09801	051820	015651	STORE 03 CHARGES					10.00			.00	

STATE OF NEBRASKA
DEPARTMENT OF CORRECTIONAL SERVICES
ACCOUNTING
INSTITUTIONAL ACCOUNT STATEMENT
FOR THE MONTH ENDING JUNE 30, 2020

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ID NUMBER	NAME	DATE REC	INST	REC	LAST							
			RELEASE	CTR	LOCALITY	ACTIVITY						
83564	WEATHERS/BRANDON J	02/18/16		LCC A2	U16	06/23/20						
SSN	PREV ID	GATE	HR ASSIGNMENT	DATE	IST	CNF	MNT	RST	SAV	SEC	SUS	LEG
505256763	54726	.00	AD HSNG A	11/27/17	O	O			O	O	O	
					N	N			N	N	N	
PROL VIOL	DET	BEGIN BAL	BEG UNFR BAL	CURR FR BAL	CURR UNFR BAL	CURR BAL						
		N	1.50	.00	.00	.42						
TRAN	TRAN	DOC	FROZEN									
CODE	DATE	NUMBER	DESCRIPTION	AMOUNT	DEBIT	CREDIT	BALANCE					
01301	061620		PAY 376 * MAY 2020		186.00		186.00					
01104	061620		S-ORDR CI155228	75.00			111.00					
01105	061620		C-ORDR 4:17CV3024	37.20			73.80					
01105	061620		C-ORDR 4:17CV3034	37.20			36.60					
01012	061620		FRZ/UNFRZ SUSPENSE	26.60			10.00					
09801	061720	017370	STORE 03 CHARGES		7.92		2.08					
09801	061820	018194	STORE 03 CHARGES		1.77		.31					
01012	062320		FRZ/UNFRZ SUSPENS	28.10-			28.41					
09702	062320		LCC POSTAGE		12.32		16.09					
09706	062320		LCC COPIES		1.30		14.79					
09702	062320		LCC POSTAGE		3.57		11.22					
09702	062320		LCC POSTAGE		1.61		9.61					
09702	062320		LCC POSTAGE		1.40		8.21					
09702	062320		LCC POSTAGE		.98		7.23					
09702	062320		LCC POSTAGE		1.09		6.14					
09706	062320		LCC COPIES		1.10		5.04					
09702	062320		LCC POSTAGE		1.82		3.22					
09706	062320		LCC COPIES		2.80		.42					

STATE OF NEBRASKA
 DEPARTMENT OF CORRECTIONAL SERVICES
 ACCOUNTING
 INSTITUTIONAL ACCOUNT STATEMENT
 FOR THE MONTH ENDING JULY 31, 2020

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ID NUMBER	NAME	INST DATE REC	REC RELEASE	LAST CTR LOCALITY	ACTIVITY		
83564	WEATHERS/BRANDON J	02/18/16		LCC A2 U16	07/20/20		
SSN	PREV ID	GATE	HR ASSIGNMENT	DATE	IST CNF MNT RST SAV SEC SUS LEG		
505256763	54726	.00	AD HSNG A	11/27/17	O O O O O O		
					N N N N N N		
PROL VIOL	DET	BEGIN BAL	BEG UNFR BAL	CURR FR BAL	CURR UNFR BAL	CURR BAL	
		N .42	.42	1.70	.00	1.70	
TRAN	TRAN	DOC	FROZEN				
CODE	DATE	NUMBER	DESCRIPTION	AMOUNT	DEBIT	CREDIT	BALANCE
01301	071720		PAY 376 * JUN 2020			102.00	102.42
01104	071720		S-ORDR CI155228	51.00			51.42
01105	071720		C-ORDR 4:17CV3024	20.40			31.02
01105	071720		C-ORDR 4:17CV3034	20.40			10.62
01012	071720		FRZ/UNFRZ SUSPENSE	.62			10.00
01301	071720		PAY 376 53 JUN 2020			10.89	20.89
01104	071720		S-ORDR CI155228	5.45			15.44
01105	071720		C-ORDR 4:17CV3024	2.18			13.26
01105	071720		C-ORDR 4:17CV3034	2.18			11.08
01012	071720		FRZ/UNFRZ SUSPENSE	1.08			10.00
09801	072020	017429	STORE 03 CHARGES		10.00		.00

STATE OF NEBRASKA
 DEPARTMENT OF CORRECTIONAL SERVICES
 ACCOUNTING
 INSTITUTIONAL ACCOUNT STATEMENT
 FOR THE MONTH ENDING AUGUST 31, 2020

PAGE 1

ID	INST	REC	LAST	
NUMBER NAME	DATE REC	RELEASE	CTR LOCALITY ACTIVITY	
83564 WEATHERS/BRANDON J	02/18/16		LCC A2 U16 08/20/20	
SSN PREV ID GATE HR ASSIGNMENT DATE	IST CNF MNT RST SAV SEC SUS LEG			
505256763 54726 .00 AD HSNG A 11/27/17	O O O N N N	O O O	N N N	
PROL VIOL DET BEGIN BAL BEG UNFR BAL CURR FR BAL CURR UNFR BAL CURR BAL				
N 1.70 .00 1.70 .00 1.70				
TRAN TRAN DOC	FROZEN			
CODE DATE NUMBER DESCRIPTION	AMOUNT	DEBIT	CREDIT	BALANCE
01301 081820 PAY 376 53 JUL 2020			27.83	27.83
01104 081820 S-ORDR CI155228		13.92		13.91
01105 081820 C-ORDR 4:17CV3024		3.91		10.00
09801 082020 016715 STORE 03 CHARGES		10.00		.00