

Number

20-6507

ORIGINAL

In the
Supreme Court of the United States

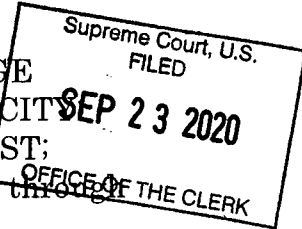
DARRELL BERRY; CONSTANCE LAFAYETTE

Petitioners,

v.

WELLS FARGO BANK, N.A.; FEDERAL HOME LOAN MORTGAGE
CORPORATION, "Freddie Mac" as trustee for securitized trust; LOANCITY
FREDDIE MAC MULTICLASS CERTIFICATES SERIES 3113 TRUST;
MORTGAGE ELETRONIC REGISTRATION SYSTEM, "MERS"; DOES 1 through
100 "inclusive", et al.

Respondents.



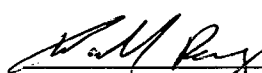

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

I, DARRELL BERRY and CONSTANCE LAFAYETTE ask leave to file the Writ of Certiorari without prepayment costs thereby proceeding in forma pauperis. We have previously been granted the same leave by the:

1. 19th Judicial District Court of East Baton Rouge, Parish, C-672792
2. United States District Court Middle District of Louisiana, 3:18-cv-00888 and
3. United State Court of Appeals for the Fifth Circuit 19-30836.

A copy of the United State Court of Appeals for the Fifth Circuit order of appointment is attached.

The foregoing is true and correct. Respectfully Submitted September 22, 2020.

 
Darrell Berry and Constance Lafayette,
8338 Greenmoss Drive,
Baton Rouge, LA 70806
(Phone): 225.610.8633
Petitioner Pro Se

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

I, Darrell Berry, 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 therefore; 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, bi-weekly, 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	\$ 2680	\$ 0	\$ 2680
Self-employment	\$ 837.00	\$ 0	Don't know	\$ 0
Income from Real property (such as rental income)	\$ 0	\$ 500	\$ 0	\$ 500
Interest and Dividends	\$ 0	0	\$ 0	0
Gifts	\$ 0	0	\$ 0	0
Alimony	\$ 0	0	\$ 0	0
Child Support	\$ 0	0	\$ 0	0
Retirement (Such as social security, pensions, annuities, insurance,	\$ 0	0	\$ 0	0
Disability (such as social security, insurance payments)	\$ 0	0	\$ 0	0
Unemployment payments	\$ 0	0	\$ 0	0
Public-assistance (such as welfare)	\$ 0	0	\$ 0	0
Other (specify: _____)	\$ 0			
Total Monthly income	\$ 837.00	\$ 3100	Don'tknow	\$ 3100

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
Self Employed	8338 Greenmoss Dr. Baton Rouge, LA 70806	November 2018 to present	\$ 837
			\$
			\$

3. List your spouse's 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
A Absolute Home Care	707 Railroad Donaldsonville, LA	February 2012 to present	\$ 2680
			\$
			\$

4. How much cash do you and your spouse have? \$ 189

Below, state any money you or your spouse have in bank accounts or any other institutions

Financial institution	Type of Account	Amount you have	Amount your spouse has
NFCU	Checking/Savings	\$ 189	\$ 0
		\$ 0	\$ 0
		\$ 0	\$ 0

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

- | | |
|--|---|
| <input checked="" type="checkbox"/> Home | <input checked="" type="checkbox"/> Other Real Estate |
| Value <u>\$264,000</u> | Value <u>\$ 36,000 (Rental)</u> |
| <input checked="" type="checkbox"/> Motor Vehicle #1 | <input checked="" type="checkbox"/> Motor Vehicle #2 |
| Year, make & model <u>2008 H2 Hummer</u> | Year, make & model <u>2011 GMC Terrain</u> |
| Value <u>\$ 7,000</u> | Value <u>\$2,000</u> |
| <input checked="" type="checkbox"/> Other Assets | |
| Description <u>2020 GMC Terrain</u> | |
| Value <u>\$16,000</u> | |

6. State every person, business, or organization owing you or your spouse, 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.

Name	Relationship	Age
<u>Rhikki Lafayette</u>	<u>Daughter</u>	<u>27</u>
<u>Najee Berry</u>	<u>Son</u>	<u>23</u>
<u>Ofari Berry</u>	<u>Son</u>	<u>22</u>
<u>Aiden Lafayette</u>	<u>Grandson</u>	<u>1</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>In dispute Litigating</u>	\$ <u>278 (Rental)</u>
Are real estate taxes included? <input checked="" type="checkbox"/> Yes <input 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>324</u>	\$ <u>144</u>
Home maintenance (repairs and upkeep)	\$ <u>0</u>	\$ <u>54</u>
Food	\$ <u>153</u>	\$ <u>306</u>
Clothing	\$ <u>0</u>	\$ <u>72</u>
Laundry and dry-cleaning	\$ <u>0</u>	\$ <u>63</u>
Medical and dental expenses	\$ <u>0</u>	\$ <u>135</u>

	You	Your Spouse
Transportation (not including motor vehicle payments)	\$ 126__	\$ 423
Recreation, entertainment, newspapers, magazines, etc.	\$ 0	\$ 0
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ 198	\$ 74
Life	\$ 0	\$ 200
Health	\$ 0	\$ 161
Motor Vehicle	\$ 147	\$ 330
Other, _____	\$ 0	\$ 0
Taxes (not deducted from wages or included in mortgage payments)		
(specify): _____	\$ N/A	\$ N/A
Installment payments		
Motor Vehicle	\$ 0	\$ 600
Credit card(s)	\$ 98	\$ 342
Department Store(s)	\$ 0	\$ 0
Other, _____	\$ 0	\$ 0
Alimony, maintenance and support paid to others	\$ 0	\$ 0
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ Phone 36 \$ Gas 108	\$ 0
Other (specify): _____	\$ 0	\$ 0
Total monthly expenses:	\$ 1,190	\$ 3,182

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 connected with this case including the completion of this form?

☐ Yes ☒ No

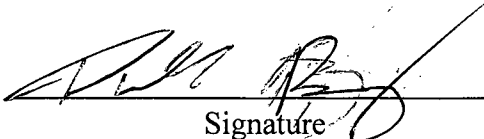
If yes, how much? _____

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 cost of this case. Filing fees for the court can easily range from several hundred to several thousands of dollars. More so because we were not granted an injunction to stop the foreclosure to stop the sale of our home, we had to file bankruptcy. In doing so we no longer have the income and access to credit we once had.

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

Executed on: November 23, 2020



Signature

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

I, Constance Lafayette, 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 therefore; 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, bi-weekly, 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	\$ 2680	\$ 0	\$ 2680	\$ 0
Self-employment	\$ 0	\$ 837.00	\$	Don't know
Income from Real property (such as rental income)	\$ 500	\$ 0	\$ 500	\$ 0
Interest and Dividends	\$ 0	\$ 0	\$ 0	\$ 0
Gifts	\$ 0	\$ 0	\$ 0	\$ 0
Alimony	\$ 0	\$ 0	\$ 0	\$ 0
Child Support	\$ 0	\$ 0	\$ 0	\$ 0
Retirement (Such as social security, pensions, annuities, insurance,	\$ 0	\$ 0	\$ 0	\$ 0
Disability (such as social security, insurance payments)	\$ 0	\$ 0	\$ 0	\$ 0
Unemployment payments	\$ 0	\$ 0	\$ 0	\$ 0
Public-assistance (such as welfare)	\$ 0	\$ 0	\$ 0	\$ 0
Other (specify:)	\$ 0	\$ 0	\$ 0	
Total Monthly income	\$ 3100	\$ 837.00	\$ 3100	Don'tknow

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
A Absolute Home Care	707 Railroad Donaldsonville, LA	February 2012 to present	\$ 2680
			\$
			\$

3. List your spouse's 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
Self Employed	8338 Greenmoss Dr. Baton Rouge, LA 70806	November 2018 to present	\$ 837
			\$
			\$

4. How much cash do you and your spouse have? \$ 189

Below, state any money you or your spouse have in bank accounts or any other institutions

Financial institution	Type of Account	Amount you have	Amount your spouse has
Neighbors Federal	Checking/Saving	\$	\$ 189
		\$	\$
		\$	\$

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

- ☒ Home Value \$36000 Rent _____ ☒ Other Real Estate Value \$264,400 Home _____
- ☒ Motor Vehicle #1 Year, make & model 2011 GMC Terrain Value \$ 2,000
- ☒ Motor Vehicle #2 Year, make & model 2020 GMC Terrain Value 16,000
- ☒ Other Assets Description Hummer H2 2008 Value \$ 7,000

6. State every person, business, or organization owing you or your spouse, 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.

Name	Relationship	Age
<u>Rhikki Lafayette</u>	<u>Daughter</u>	<u>27</u>
<u>Najee Berry</u>	<u>Son</u>	<u>23</u>
<u>Ofari Berry</u>	<u>Son</u>	<u>22</u>
<u>Aiden Lafayette</u>	<u>Grandson</u>	<u>1</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) Home	Rent \$ 278	Home \$ In dispute Litigating
Are real estate taxes included? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Is property insurance included? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Utilities (electricity, heating fuel, Water, sewer, and telephone)	\$ 144	\$ 324
Home maintenance (repairs and upkeep)	\$ 54	\$ 0
Food	\$ 306	\$ 153
Clothing	\$ 72	\$ 0
Laundry and dry-cleaning	\$ 63	\$ 0
Medical and dental expenses	\$ 135	\$ 0

	You	Your Spouse
Transportation (not including motor vehicle payments)	\$ <u>423</u>	\$ <u>126</u>
Recreation, entertainment, newspapers, magazines, etc.	\$ <u>0</u>	\$ <u>0</u>
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	Renters \$ <u>74</u>	Home \$ <u>198</u>
Life	\$ <u>200</u>	\$ <u>0</u>
Health	\$ <u>161</u>	\$ <u>0</u>
Motor Vehicle	\$ <u>330</u>	\$ <u>147</u>
Other, _____	\$ <u>0</u>	\$ <u>0</u>
Taxes (not deducted from wages or included in mortgage payments)		
(specify): _____	\$ <u>N/A</u>	\$ <u>N/A</u>
Installment payments		
Motor Vehicle	\$ <u>600</u>	\$ <u>0</u>
Credit card(s)	\$ <u>342</u>	\$ <u>98</u>
Department Store(s)	\$ <u>0</u>	\$ <u>0</u>
Other, _____	\$ <u>0</u>	\$ <u>0</u>
Alimony, maintenance and support paid to others	\$ <u>0</u>	\$ <u>0</u>
Regular expenses for operation of business, profession; or farm (attach detailed statement)	\$ <u>0</u>	\$ <u>36 Phone</u> \$ <u>108 Gas</u>
Other (specify): _____	\$ <u>0</u>	\$ <u>0</u>
Total monthly expenses:	\$ <u>3,182</u>	\$ <u>1,073</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 connected 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 cost of this case.

Filing fees for the court can easily range from several hundred to several thousands of dollars. More so because we were not granted an injunction to stop the foreclosure to stop the sale of our home; we had to file bankruptcy. In doing so we no longer have the income and access to credit we once had.

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

Executed on: November 23, 2020

Constanta Lafayette
Signature

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

DARRELL BERRY, ET AL

CIVIL ACTION

VERSUS

18-888-JWD-SDJ

WELLS FARGO BANK, N.A., ET AL

ORDER

Considering Plaintiff's Application to Proceed in District Court without Prepaying Fees or Costs (R. Doc. 80), which seeks leave to proceed in forma pauperis before the United States Court of Appeals for the Fifth Circuit;

IT IS ORDERED that the Motion is **GRANTED**.

Signed in Baton Rouge, Louisiana, on March 25, 2020.



SCOTT D. JOHNSON
UNITED STATES MAGISTRATE JUDGE

Number _____

In the
Supreme Court of the United States

DARRELL BERRY; CONSTANCE LAFAYETTE

Petitioners,

v.

WELLS FARGO BANK, N.A.; FEDERAL HOME LOAN MORTGAGE
CORPORATION, "Freddie Mac" as trustee for securitized trust; LOANCITY;
FREDDIE MAC MULTICLASS CERTIFICATES SERIES 3113 TRUST;
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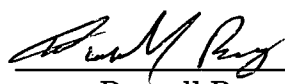
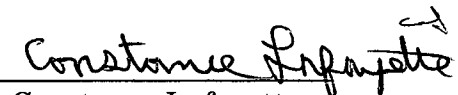
DECLARATION IN SUPPORT OF
MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

I, DARRELL BERRY and CONSTANCE LAFAYETTE ask leave to file the Writ of Certiorari without prepayment costs thereby proceeding in forma pauperis. We have previously been granted the same leave by the:

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2. United States District Court Middle District of Louisiana, 3:18-cv-00888 and
3. United State Court of Appeals for the Fifth Circuit 19-30836.

We declare under penalty of perjury that we are unable to pay the costs of this case or to give a bond, and believe we are entitled to this accommodation. The COVID-19 pandemic has significantly impacted us.

The foregoing is true and correct. Respectfully Submitted September 22, 2020.

Darrell Berry and Constance Lafayette,
8338 Greenmoss Drive,
Baton Rouge, LA 70806
(Phone): 225.610.8633
Petitioner Pro Se