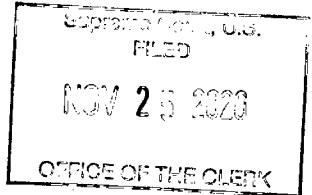


20-6607
No.

IN THE
SUPREME COURT OF THE UNITED STATES



KUSHAWN MILES-EL — PETITIONER
(Your Name)

VS.

TENIA CORRECTIONAL FACILITY, GIAI — 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):

UNITED STATES DISTRICT COURT FOR WESTERN DISTRICT OF MICHIGAN; U.S. COURT OF APPEALS - SIXTH CIRCUIT; MICHIGAN SUPREME COURT; MICHIGAN COURT OF APPEALS

Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court. SIXTH CIRCUIT (THE INSTANT CASE)

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: _____
N/A, or

a copy of the order of appointment is appended.

RECEIVED
DEC - 9 2020

OFFICE OF THE CLERK
SUPREME COURT, U.S.

Kushawn Miles-El

(Signature)

XII. Statement of the Case

Provide a **concise** statement of the case containing the facts material to the consideration of the question(s) presented; you should summarize the relevant facts of the case and the proceedings that took place in the lower courts. You may need to attach additional pages, but the statement should be concise and limited to the relevant facts of the case.

XIII. Reasons for Granting the Petition

The purpose of this section of the petition is to explain to the Court why it should grant certiorari. It is important to read Rule 10 and address what compelling reasons exist for the exercise of the Court's discretionary jurisdiction. Try to show not only why the decision of the lower court may be erroneous, but the national importance of having the Supreme Court decide the question involved. It is important to show whether the decision of the court that decided your case is in conflict with the decisions of another appellate court; the importance of the case not only to you but to others similarly situated; and the ways the decision of the lower court in your case was erroneous. You will need to attach additional pages, but the reasons should be as concise as possible, consistent with the purpose of this section of the petition.

XIV. Conclusion

Enter your name and the date that you submit the petition.

XV. Proof of Service

You must serve a copy of your petition on counsel for respondent(s) as required by Rule 29. If you serve the petition by first-class mail or by third-party commercial carrier, you may use the enclosed proof of service form. If the United States or any department, office, agency, officer, or employee thereof is a party, you must serve the Solicitor General of the United States, Room 5614, Department of Justice, 950 Pennsylvania Ave., N.W., Washington, D. C. 20530-0001. The lower courts that ruled on your case are not parties and need not be served with a copy of the petition. The proof of service may be in the form of a declaration pursuant to 28 U. S. C. § 1746.

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

I, KUSHAWN MILES-EL, 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>N/A</u> | \$ <u>N/A</u> | \$ <u>N/A</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>Family Support \$ 15.00</u> | \$ <u>N/A</u> | \$ <u>N/A</u> | \$ <u>N/A</u> | \$ <u>N/A</u> |
| Total monthly income: | \$ <u>15.00</u> | \$ <u>N/A</u> | \$ <u>N/A</u> | \$ <u>N/A</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 |
|-------------------|---------|---------------------|-------------------|
| CHIPPEWA CORP Fnc | | 2017 - July 2018 | \$ 35.00 |
| N/A | N/A | N/A | \$ N/A |
| N/A | N/A | N/A | \$ N/A |

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 |
| N/A | N/A | N/A | \$ N/A |
| N/A | N/A | N/A | \$ N/A |

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

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 |
|---|-----------------|------------------------|
| N/A | \$ N/A | \$ N/A |
| N/A | \$ N/A | \$ N/A |
| N/A | \$ N/A | \$ N/A |

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 N/A

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

Other assets
Description N/A
Value N/A

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> | \$ <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. For minor children, list initials instead of names (e.g. "J.S." instead of "John Smith").

| Name | Relationship | Age |
|------------|--------------|------------|
| <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> |

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

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

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

N/A

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? N/A

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

N/A

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

PETITIONER HAS NO JOB; NO SOURCE OF INCOME AND HE OWES STATE AND FEDERAL COURT COSTS AND FILING FEES AND RESTITUTION TO MICHIGAN DEPARTMENT OF CORRECTIONS. PETITIONER HAS NOT WORKED SINCE 7-17-18

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

Executed on: OCTOBER 17, 2020

*SUBSCRIBED AND SWORN BEFORE ME ON:
THIS 23RD DAY OF NOVEMBER, 2020*

K. CHAMBERLAIN
NOTARY PUBLIC, STATE OF MI
COUNTY OF ALGER
MY COMMISSION EXPIRES May 21, 2024
ACTING IN COUNTY OF ALGER

K. Chamberlain
11/23/2020

Kushawn Miles

(Signature)

Kushawn Miles
KUSHAWN MILES-EL #37011
NOVEMBER 23, 2020

20-6607

No. _____

RECEIVED
CLERK'S OFFICE
SUPREME COURT OF THE UNITED STATES

IN THE
SUPREME COURT OF THE UNITED STATES

RECEIVED
NOV 23 2009
OFFICE OF THE CLERK

KUSHAWN MILES-EL — PETITIONER
(Your Name)

vs.

TONA CORRECTIONAL FACILITY, et al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

SIXTH CIRCUIT COURT OF APPEALS, CASE No. 20-1278
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

KUSHAWN MILES-EL #237011
(Your Name)

N6141 INDUSTRIAL PARK DRIVE
(Address)

MUNISING, MICHIGAN 49863
(City, State, Zip Code)

N/A
(Phone Number)

Document Cover Sheet

Miles, Kushawn S. v. Ionia Corr. Facility

Petition

SCUS|163579|43



QUESTION(S) PRESENTED

I. WHETHER AN INDIGENT PRO SE LITIGANT ENTITLED PROCEED IN FORMA PAUPERIS AND TO THE APPOINTMENT OF COUNSEL ON APPEAL ONCE HE OR SHE HAS SATISFIED THE REQUIREMENTS, OF 28 U.S.C. § 1915(a), TO PURSUE NON-FRIVOLOUS CONSTITUTIONAL CLAIMS; AND, IF SO, IS IT A VIOLATION OF THE "SUPREMACY CLAUSE)" TO THE UNITED STATES CONSTITUTION, ARTICLE VI, CL. 2; CL. 3, WHEN THE UNITED STATES COURT OF APPEALS DENY AND DEPRIVE AN INDIGENT PRO SE LITIGANT OF HIS OR HER APPELLATE RIGHTS UNDER THE DUE PROCESS AND EQUAL PROTECTION CLAUSE TO THE FOURTEENTH AMENDMENT?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

- 1.) HON. BUSH, CIRCUIT COURT JUDGE, FOR SIXTH CIRCUIT COURT OF APPEALS;
- 2.) HON. ROBERT J. JONKER, UNITED STATES DISTRICT JUDGE FOR WESTERN DISTRICT OF MICHIGAN;
- 3.) HON. RAY KENT, UNITED STATES MAGISTRATE JUDGE FOR WESTERN DISTRICT OF MICHIGAN;
- 4.) MR. JOSHUA DOUGLAS MARCUM, OFFICE OF THE ATTORNEY OF MICHIGAN (GENERAL)
- 5.) MS. SARAH R. ROBBINS, OFFICE OF THE ATTORNEY GENERAL OF MICHIGAN
- 6.) MR. KUSHAWN MILES-EL, PRO SE, PETITIONER-APPELLANT.

RELATED CASES

- 1.) COPPEDGE v. UNITED STATES, 369 U.S. 438, 446 (1968)
- 2.) ELLIS v. UNITED STATES, 356 U.S. 674, 675
- 3.) FOSTER v. UNITED STATES DISTRICT COURT, 344 F.2d. 698, 699 (6TH CIR. 1965)
- 4.) JOHNSON v. UNITED STATES, 350 U.S. 565 (1957) (PER CURIAM)
- 5.) PHIPPS v. KING, 866 F.2d 824, 825 (6TH CIR. 1988)
- 6.) ROBERTS v. UNITED STATES DISTRICT COURT, 399 U.S. 844, 845 (1950) (PER CURIAM)
- 7.) WOODS v. DAHLBERG, 894 F.2d 187, n.1 (6TH CIR. 1990) (PER CURIAM)

ADDITIONAL - LIST - OF - PARTIES

- 7.) JAMES SCHIEBNER, DEFENDANT
- 8.) JEFFREY LARSON, DEFENDANT
- 9.) MARCUS TURNER, DEFENDANT
- 10.) JOE NOVAK, DEFENDANT
- 11.) SHAWN RYKSE, DEFENDANT
- 12.) SAMANTHA FERRELL, DEFENDANT

TABLE OF CONTENTS

| | |
|--|---|
| OPINIONS BELOW | 1 |
| JURISDICTION..... | 2 |
| CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED | 3 |
| STATEMENT OF THE CASE | 4 |
| REASONS FOR GRANTING THE WRIT | 5 |
| CONCLUSION..... | 6 |

INDEX TO APPENDICES

APPENDIX A ORDER SEPTEMBER 1, 2020 ORDER OF SIXTH CIRCUIT

APPENDIX B NOVEMBER 2, 2020 ORDER OF SIXTH CIRCUIT

APPENDIX C MARCH 28, 2020 DISTRICT COURT ORDER ADOPTING R³R

APPENDIX D PETITIONER'S MOTION AND AFFIDAVIT FOR PAUPER STATUS

APPENDIX E

APPENDIX F

TABLE OF AUTHORITIES CITED

| CASES | PAGE NUMBER |
|--|-------------|
| COPPEDGE V. UNITED STATES, 369 U.S. 438, 446 (1962) | 5 |
| ELLIS V. UNITED STATES, 356 U.S. 674, 675 | 5 |
| FOSTER V. UNITED STATES, 344 F.2d 698, 699 (6TH CIR. 1965) | |
| JOHNSON V. UNITED STATES, 352 U.S. 565 (1957) (PER CURIAM) | 5 |
| PHIPPS V. KING, 866 F.2d 824, 825 (6TH CIR. 1988) | |
| ROBERTS V. UNITED STATES DISTRICT COURT, 399 U.S. 844, 845 (1950) (PER CURIAM) | 5 |
| WOODS V. DAHLBERG, 894 F.2d 187, 191 (6TH CIR. 1990) (PER CURIAM) | |

STATUTES AND RULES

28 U.S.C. § 1915 (a)

28 U.S.C. § 1254(1)

RULE 29 OF SUPREME COURT

OTHER

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

reported at 2020 U.S. APP. LEXIS 27847; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

reported at 2020 U.S. DIST. LEXIS 46678; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

[] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was SEPTEMBER 1, 2000.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.
An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. __A_____.
The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.
A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.
An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. __A_____.
The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

THE QUESTIONS PRESENTED IMPLICATE THE FOLLOWING PROVISIONS OF THE UNITED STATES CONSTITUTION AND THE UNITED STATES CODE.

ARTICLE VI, CLAUSE 2: THIS CONSTITUTION, AND THE LAWS OF THE UNITED STATES SHALL BE MADE IN PURSUANCE THEREOF; AND ALL TREATIES MADE, OR WHICH SHALL BE MADE, UNDER THE AUTHORITY OF THE UNITED STATES, SHALL BE THE SUPREME LAW OF THE LAND; AND THE JUDGES IN EVERY STATE SHALL BE BOUND THEREBY. ANYTHING IN THE CONSTITUTION OR LAWS OF ANY STATE TO THE CONTRARY NOTWITHSTANDING.

ARTICLE VI, CLAUSE 3: ALL EXECUTIVE AND JUDICIAL OFFICERS, BOTH OF THE UNITED STATES AND OF THE SEVERAL STATES, SHALL BE BOUND BY OATH OR AFFIRMATION, TO SUPPORT THIS CONSTITUTION;

THE FOURTEENTH AMENDMENT: SECTION 1: ALL PERSONS BORN OR NATURALIZED IN THE UNITED STATES, AND SUBJECT TO THE JURISDICTION THEREOF, ARE CITIZENS OF THE UNITED STATES AND OF THE STATE WHEREIN THEY RESIDE. NO STATE SHALL MAKE OR ENFORCE ANY LAW WHICH SHALL ABRIDGE THE PRIVILEGES OR IMMUNITIES OF CITIZENS OF THE UNITED STATES; NOR SHALL ANY STATE DEPRIVE ANY PERSON OF LIFE, LIBERTY OR PROPERTY WITHOUT DUE PROCESS OF LAW; NOR TO DENY TO ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION OF THE LAWS.

28 U.S.C. § 1915(a): SECTION (1): SUBJECT TO SUBSECTION (b), ANY COURT OF THE UNITED STATES MAY AUTHORIZE THE COMMENCEMENT, PROSECUTION, OR DEFENSE OF ANY SUIT, ACTION OR PROCEEDING, CIVIL OR CRIMINAL OR APPEAL, THEREIN WITHOUT PREPAYMENT OF FEES OR SECURITY BY WHO SUBMITS AN AFFIDAVIT THAT INCLUDES A STATEMENT OF ALL ASSETS SUCH [PERSON] PRISONER POSSESSES THAT THE PERSON IS UNABLE TO PAY SUCH FEES OR GIVE SECURITY THEREFORE SUCH AFFIDAVIT SHALL STATE THE NATURE OF THE ACTION, DEFENSE OR APPEAL SHALL STATE THAT NATURE OF THE ACTION AND AFFIANT'S BELIEF THAT THE PERSON IS ENTITLED TO REDRESS.

SECTION (2): A PRISONER SEEKING TO BRING A CIVIL ACTION OR APPEAL A JUDGMENT IN A CIVIL ACTION OR PROCEEDING WITHOUT PAYMENT OF FEES OR SECURITY, THEREFORE, IN A CIVIL ACTION IN ADDITION TO FILING THE AFFIDAVIT UNDER PARAGRAPH (1) SHALL SUBMITS A CERTIFIED COPY OF TRUST FUND ACCOUNT STATEMENT (OR INSTITUTIONAL EQUIVALENT) FOR THE PRISONER FOR THE (6-MONTH PERIOD) IMMEDIATELY PRECEDING THE FILING OF THE COMPLAINT OR NOTICE OF APPEAL, OBTAINED FROM THE APPROPRIATE OFFICIAL OF EACH PRISON AT WHICH THE PRISONER IS OR WAS CONFINED.

STATEMENT OF THE CASE

ON JULY 2, 2018, PETITIONER MILES-EL FILED A VERIFIED COMPLAINT UNDER 42 U.S.C.361 AGAINST (ICF), DEFENDANTS: JAMES SCHIEBNER, JOHN CHRISTIANSEN, JEFFREY LARSON, MARCUS TURNER, JOE NOVAK, SHAWN RYKSE, AND ICF-TRANSFER COORDINATOR SAMANTHA FARRELL. MILES-EL ALLEGED THAT THE DEFENDANTS VIOLATED OR CONSIDERED TO VIOLATE HIS RIGHTS UNDER THE FIRST AMENDMENT TO BE FREE FROM RETALIATION FOR ENGAGING IN PROTECTED CONDUCT AND HIS PROCEDURAL AND SUBSTANTIAL DUE PROCESS AND EQUAL PROTECTION OF THE LAWS. MILES-EL SUED ALL DEFENDANTS IN THEIR PERSONAL CAPACITY ONLY. SEEKING MONETARY DAMAGES AND DECLARATORY AND INJUNCTIVE RELIEF. MILES-EL ALSO ALLEGED STATE CONSTITUTIONAL CLAIMS.

DURING INITIAL SCREENING THE DISTRICT COURT DISMISSED (ICF) AND MILES-EL'S PROCEDURAL DUE PROCESS CLAIMS FOR FAILING TO STATE A CLAIM UPON WHICH RELIEF MAY BE GRANTED. THE DISTRICT ORDERED THE CLERK TO SERVE THE REMAINING DEFENDANTS WITH RESPECT TO MILES-EL FIRST AMENDMENT RETALIATION AND FOURTEENTH AMENDMENT SUBSTANTIVE DUE PROCESS CLAIMS AND STATE CONSTITUTIONAL CLAIMS. STIPULATIONS WERE MADE TO DISMISS DEFENDANT CHRISTIANSEN FROM THE LAWSUIT. MR. MILES-EL AND THE DEFENDANTS FILED CROSS-MOTIONS FOR SUMMARY JUDGMENTS. ON THE RECOMMENDATION OF MAGISTRATE RAY KENT AND OVER MILES-EL'S AFFIDAVITS, COMPETENT EVIDENCE AND HIS OBJECTIONS. DISTRICT JUDGE ROBERT J. JONKER GRANTED THE DEFENDANTS MOTION FOR SUMMARY JUDGMENT, DENIED MILES-EL'S VERIFIED MOTION FOR SUMMARY JUDGMENT AND DECLINED TO EXERCISE JURISDICTION OVER MILES-EL'S STATE-CONSTITUTIONAL CLAIMS. PURSUANT TO 28 U.S.C.: 1915(a)(3) THE DISTRICT COURT CERTIFIED IN WRITING THAT MILES-EL HAD NO GOOD-FAITH BASIS TO APPEAL. MILES-EL FILED A NOTICE TO APPEAL AND FILED A VERIFIED MOTION AND AFFIDAVIT FOR LEAVE TO APPEAL IN FORMA PAUPERIS TO THE SIXTH CIRCUIT COURT OF APPEALS, ACCOMPANIED BY CERTIFIED PRISON ACCOUNT STATEMENT OF INDIGENCY AND ISSUES FOR CONSIDERATION. (SEE APPENDIX J).

ON SEPTEMBER 1, 2020, CIRCUIT JUDGE DENIED MILES-EL'S VERIFIED MOTION FOR LEAVE TO APPEAL IN FORMA PAUPERIS BECAUSE IT APPEARED THAT MILES-EL'S APPEAL LACKED ARGUABLE BASIS IN LAW WITHOUT APPOINTING MILES-EL THE ASSISTANCE OF COUNSEL. THE SIXTH CIRCUIT JUDGE ORDERED MILES-EL TO PAY THE ENTIRE FILING FEE IN 30-DAYS TO THE DISTRICT COURT OR HIS APPEAL WOULD BE DISMISSED FOR WANT OF PROSECUTION. (SEE APPENDIX-A). ON NOVEMBER 21, 2020, MILES-EL'S APPEAL WAS DISMISSED FOR WANT OF PROSECUTION AND NOT BEING ABLE TO PAY THE FILING FEE. (SEE APPENDIX-B)

NOW PETITIONER-APPELLANT MILES-EL SEEKS CERTIORARI TO THE SIXTH CIRCUIT COURT OF APPEALS TO CONFORM TO THIS COURT'S CLEARLY ESTABLISHED PRECEDENTS AND "IN THE INTEREST OF JUSTICE."

REASONS FOR GRANTING THE PETITION

PETITIONER MILES-EL'S PETITION SHOULD BE GRANTED BECAUSE HIS INDIGENCY STATUS PREVENTED HIM FROM MEETING BOTH EXPENSES OR REQUIREMENTS OF PAYING THE COURTS FEES FOR DOCKETING AN APPEAL AND THE COSTS OF PREPARING THE RECORD. MILES-EL'S WAS DEPRIVED OF HIS ONLY WAY TO PERFECT HIS APPEAL BY THE SIXTH CIRCUIT'S DENIAL OF HIS VERIFIED MOTION FOR LEAVE TO PROCEED ON APPEAL IN FORMA PAUPERIS. CONTRARY TO CLEARLY ESTABLISHED DECISIONS OF THIS COURT. SEE JOHNSON v. UNITED STATES, 350 U.S. 565, 565-566 (1957) (PER CURIAM); ROBERTS v. UNITED STATES DISTRICT COURT, 339 U.S. 844, 845 (1950) (PER CURIAM). SEE ALSO ELLIS v. UNITED STATES, 356 U.S. 674, 675 (1958) AND COPPEDGE v. UNITED STATES, 369 U.S. 438, 446 (1960). THE SIXTH CIRCUIT'S DENIAL OF MILES-EL'S REQUEST FOR LEAVE TO PROCEED IN FORMA PAUPERIS TO PERFECT HIS APPELLATE ALSO WAS A VIOLATION OF HIS APPELLATE RIGHTS UNDER THE DUE PROCESS AND EQUAL PROTECTION CLAUSE OF THE FOURTEENTH AMENDMENT AND VIOLATES THE "SUPREMACY CLAUSE" OF THE UNITED STATES CONSTITUTION. ARTICLE VI, CLAUSE 2; CLAUSE 3.

BECAUSE THE SIXTH CIRCUIT PANEL DID NOT APPOINT COUNSEL TO AID MILES-EL IN PROSECUTING HIS APPEAL IN FORMA PAUPERIS AND DID NOT ASSURE MILES-EL HAD ADEQUATE MEANS OF PRESENTING HIS MOTION FOR LEAVE TO APPEAL IN FORMA PAUPERIS WITH A FAIR BASIS FOR DETERMINING WHETHER THE DISTRICT COURT'S CERTIFICATION WAS JUSTIFIED AND WARRANTED. THE SIXTH CIRCUIT PANEL HAD A DUTY TO DISPLACE THE DISTRICT COURT'S CERTIFICATION AFTER MILES-EL MET THE REQUIREMENTS OF 28 U.S.C. § 1915(a) ET SEQ. SEE JOHNSON, SUPRA; ROBERTS SUPRA. MILES-EL WAS DENIED THE AID OF COUNSEL ONCE HE CHALLENGED THE DISTRICT COURT'S CERTIFICATION AND WAS NOT ALLOWED TO SHOW THAT HIS GROUNDS FOR APPEALING WAS NOT FRIVOLOUS AND THE DISTRICT COURT'S CERTIFICATION WAS AN ABUSE OF DISCRETION AND UNWARRANTED. SEE JOHNSON, SUPRA; COPPEDGE, SUPRA; ROBERTS SUPRA.

THE "SUPREMACY CLAUSE" UNDER ARTICLE VI, CLAUSE 2, CLAUSE 3 OF THE U.S. CONSTITUTION PLACES A DUTY UPON THIS HONORABLE COURT AND ALL COURTS OF THE UNITED STATES, TO PROTECT AND ENFORCE THE RIGHTS, PRIVILEGES AND IMMUNITIES SECURE OR PROTECTED BY THE CONSTITUTION AND LAWS OF THE UNITED STATES. TO ASSURE MILES-EL AND ALL CITIZENS OF THE UNITED STATES THE GREATEST DEGREE POSSIBLE WITHIN THE STATUTORY FRAMEWORK FOR APPEALS CREATED BY CONGRESS "EQUAL TREATMENT" FOR EVERY LITIGANT BEFORE THE COURTS.

CONCLUSION

PETITIONER KUSHAWA MILES-EL PRAY THIS HONORABLE COURT IN THE INTEREST JUSTICE AND TO STAY IN CONFORMITY WITH THIS COURTS CLEARLY ESTABLISHED PRECEDENTS, VACATE THE SIXTH CIRCUIT'S SEPTEMBER 1, 2020 AND NOVEMBER 2, 2020 JUDGMENTS AND REMAND THIS CASE BACK AND APPOINT MILES-EL COUNSEL.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Kushawu Miles-El
Kushawu Miles-El

Date: 11-16-20