

20-6885

No.

ORIGINAL

Supreme Court, U.S.
FILED

DEC 12 2020

OFFICE OF THE CLERK

In the Supreme Court of the United States

David Alan Vogel Petitioner

v.

United States of America, Respondent

Motion 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. Petition has previously been granted leave to proceed In Forma Pauperis in his original criminal case in the U.S. District Court, Eastern District of Texas, criminal, case No. 4:08cr-0024-MAC-AM-l. That court also found him to be indigent and appointed counsel to represent him. Subsequently, in the appeal of that case, he was granted In Forma Pauperis status in his 5th circuit appeal (No. 11-4033 United States v. Vogel). Moreover, most recently in case No. 19-5990 this Supreme Court granted Mr. Vogel Certiorari and also In Forma Pauperis status (Supreme Court Order in this case June 8, 2020). Petition has been incarcerated since June 8, 2020, currently on a home-confinement COVID program. Petitioner's declaration in support of this motion is attached hereto.

Respectfully submitted,



David A. Vogel

David A. Vogel

27 Route 11 D

Alton Bay, New Hampshire 03810

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

I, _____, 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 | \$ 0 | \$ 0 | \$ 0 |
| Self-employment | \$ 0 | \$ 0 | \$ 0 | \$ 0 |
| Income from real property (such as rental income) | \$ 0 | \$ 0 | \$ 0 | \$ 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) | \$ 1,200 | \$ 0 | \$ 0 | \$ 0 |
| Other (specify): | \$ 0 | \$ 0 | \$ 0 | \$ 0 |
| Total monthly income: | \$ 1,200 | \$ 0 | \$ 0 | \$ 0 |

ONE Time STIMULUS CHECK
\$1,200

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 |
|--|---------|---------------------|-------------------|
| Was incarcerated | | | \$ |
| earned \$8.54 mo in prison | | | \$ |
| plus \$34 MONTH extra pay For programs | | | \$ |

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 |
|-----------|---------|---------------------|-------------------|
| No Spouse | | | \$ |
| | | | \$ |
| | | | \$ |

4. How much cash do you and your spouse have? \$ NO BANK ACCOUNTS
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 |
|-----------------------|-----------------|-----------------|------------------------|
| | | \$ | \$ |
| | | \$ | \$ |
| | | \$ | \$ |

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

☐ Home
Value NONE

☐ Other real estate
Value NONE

☐ Motor Vehicle #1
Year, make & model none
Value _____

☐ Motor Vehicle #2
Year, make & model _____
Value _____

☐ Other assets
Description See EXHIBIT 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

None

\$ _____
\$ _____
\$ _____

\$ _____
\$ _____
\$ _____

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

Name

Relationship

Age

No one relies on me for support

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)

Are real estate taxes included? ☐ Yes ☐ No

Is property insurance included? ☐ Yes ☐ No

\$ 0
RIGHT NOW

\$ No spouse

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

\$ _____

\$ No

Home maintenance (repairs and upkeep)

\$ _____

\$ _____

Food

\$ _____

\$ Spouse

Clothing

\$ _____

\$ _____

Laundry and dry-cleaning

\$ _____

\$ _____

Medical and dental expenses

\$ _____

\$ _____

See Exhibit A

| | You | Your spouse |
|---|----------|------------------|
| Transportation (not including motor vehicle payments) | \$ _____ | \$ _____ |
| Recreation, entertainment, newspapers, magazines, etc. | \$ _____ | \$ <u>NO</u> |
| Insurance (not deducted from wages or included in mortgage payments) | | |
| Homeowner's or renter's | \$ _____ | \$ _____ |
| Life | \$ _____ | \$ _____ |
| Health | \$ _____ | \$ _____ |
| Motor Vehicle | \$ _____ | \$ <u>Spouse</u> |
| Other: _____ | \$ _____ | \$ _____ |
| Taxes (not deducted from wages or included in mortgage payments) | | |
| (specify): _____ | \$ _____ | \$ _____ |
| Installment payments | | |
| Motor Vehicle | \$ _____ | \$ _____ |
| Credit card(s) | \$ _____ | \$ _____ |
| Department store(s) | \$ _____ | \$ _____ |
| Other: _____ | \$ _____ | \$ _____ |
| Alimony, maintenance, and support paid to others | \$ _____ | \$ _____ |
| Regular expenses for operation of business, profession, or farm (attach detailed statement) | \$ _____ | \$ _____ |
| Other (specify): _____ | \$ _____ | \$ _____ |
| Total monthly expenses: | \$ _____ | \$ _____ |

* See Exhibit A / RE Explanation
 was incarcerated
 Personal Expenses

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.

See Exhibit A for explanation

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.

See Exhibit A

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

Executed on: Dec 10, , 2020

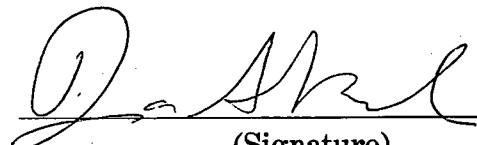

(Signature)

EXHIBIT A

I have been incarcerated since May of 2009. I am currently serving my sentence under a COVID HOME CONFINEMENT PROGRAM. This Writ is a continuation of my criminal case (cited in my Motion to proceed In Forma Pauperis). Rule 39 of the Supreme Court states that if the Court below (in this case the 5th Circuit) appointed counsel to an indigent party, no affidavit or declaration of financial condition is required. Subject to the Criminal Justice Act, 18 U. S. C. 3006 A, I was appointed counsel in my original criminal case. I had appointed counsel subject to the same provision of law during my appeal in the 5th Circuit (the Court below). In the interest of caution, I am including the foregoing affidavit as part of Motion to proceed In Forma Pauperis, albeit it might not be required.

My bank accounts were seized by the government. Any personal property I collected over the years, prior to my incarceration, is negligible - - and more than offset by extreme debt, close to \$250,000 in back taxes prior to my incarceration, and there is a \$23,000,000 judgment against me. My net worth is in excess of NEGATIVE \$20 MILLION.

I have been incarcerated since May 2009. Recently I began serving my sentence under the COVID HOME CONFINEMENT PROGRAM. I have not yet generated an income as this change occurred most recently. I do plan to generate an income in the near future, as I am told under this program, I will be allowed to earn a living. However, it will take me some time to acclimate, and I am currently indigent living in the home of one of my children. I did receive a \$1,200 Stimulus Check, but all of that money was dissipated on clothing, food and general expenses.

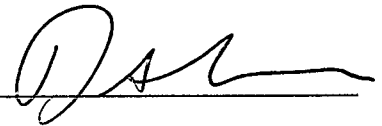
In the interest of caution, I am also enclosing a supporting Declaration of the page that follows this.

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

1. I, David A. Vogel am the Petitioner in this case, of my motion to proceed In Forma Pauperis I state: (1) Commencing in May 2009, I have been an incarcerated prisoner. As of September 10, 2020, I am currently serving my sentence under the COVID HOME CONFINEMENT PROGRAM.
2. The instant case and issue herein is a continuation of my legal fight against the original criminal charges that lead to my incarceration.
3. Regarding that criminal case, the Eastern District of Texas, U. S. District Court, appointed counsel to represent me after finding I was unable to afford an attorney (a CJA attorney was appointed)
4. In that original criminal case (No. 4:08 cr-0024-MACAM-1), the District Court granted In Forma Pauperis status.
5. My appeal to the 5th Circuit regarding this same case (No. 11-4033 United States v. Vogel) was also proceeded In Forma Pauperis.
6. My CJA attorney in that case also filed a writ of certiorari with this Supreme Court, The writ was denied, but In Forma Pauperis status was requested.
7. Most recently in case No. 19-5990 (the case which this instant Writ continues from) this Supreme Court granted me Certiorari and also granted In Forma Pauperis status (Supreme Court Order in this case June 8, 2020)

I SWEAR UNDER PENALTIES OF PERJURY the contents of this Declaration are true and correct.

By: David A. Vogel



Dated: 12-10-2020