

20-6963

No.

Supreme Court, U.S.  
FILED

JAN 20 2021

OFFICE OF THE CLERK

IN THE  
SUPREME COURT OF THE UNITED STATES

F. Allan Midyett

— PETITIONER

(Your Name)

VS.

Robert Wilke, Secretary, Department of Veterans Affairs

— 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 Western District of Arkansas, Fayetteville Division, Civil No 14-5016

☐ 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.

F. Allan Midyett  
(Signature)

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

I, F. Allan Midyett, 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>0</u>	\$ <u>0</u>	\$ <u>0</u>
Self-employment	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Income from real property (such as rental income)	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Interest and dividends	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Gifts	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Alimony	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Child Support	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>2671</u>	\$ <u>1542</u>	\$ <u>2706</u>	\$ <u>1563</u>
Disability (such as social security, insurance payments)	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Unemployment payments	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Public-assistance (such as welfare)	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Other (specify): _____	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
<b>Total monthly income:</b>	\$ <u>2671</u>	\$ <u>1542</u>	\$ <u>2706</u>	\$ <u>1563</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
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
			\$
			\$

4. How much cash do you and your spouse have? \$ \_\_\_\_\_  
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
Checking	\$ 75	\$ 75
	\$	\$
	\$	\$

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

☒ Home  
Value \$165,803

☐ Other real estate  
Value N/A

☒ Motor Vehicle #1  
Year, make & model 2010 Chrysler PT Cruiser  
Value \$3158

☒ Motor Vehicle #2  
Year, make & model 2004 Chrysler Crossfire  
Value \$1000

☐ Other assets N/A  
Description \_\_\_\_\_  
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
N/A	\$ 0	\$ 0
	\$	\$
	\$	\$

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
N/A	N/A	N/A

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)	\$ 2500	\$ 2604
Are real estate taxes included? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Is property insurance included? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ 250	\$ 53
Home maintenance (repairs and upkeep)	\$ 250	\$ 0
Food	\$ 150	\$ 150
Clothing	\$ 25	\$ 25
Laundry and dry-cleaning	\$ 10	\$ 10
Medical and dental expenses*	\$ 2300	\$ 300

\* Petitioner is currently under treatment at Rochester's  
Mayo Clinic for Pancreatic Cancer

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ <u>10</u>	\$ <u>10</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	\$ <u>0</u>	\$ <u>0</u>
Life	\$ <u>0</u>	\$ <u>37</u>
Health	\$ <u>159</u>	\$ <u>218</u>
Motor Vehicle	\$ <u>67</u>	\$ <u>0</u>
Other: _____	\$ <u>0</u>	\$ <u>0</u>
Taxes (not deducted from wages or included in mortgage payments)		
(specify): _____	\$ <u>0</u>	\$ <u>2</u>
Installment payments		
Motor Vehicle	\$ <u>161</u>	\$ <u>0</u>
Credit card(s)	\$ <u>932</u>	\$ <u>0</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>0</u>
Other (specify): _____	\$ <u>0</u>	\$ <u>0</u>
<b>Total monthly expenses:</b>	\$ <u>6788</u>	\$ <u>3998</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? \$ 6,000

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

**John Wesley Hall, Esq., 1202 Main St., Suite 210, Little Rock, AR 72202, 501-371-9131**

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

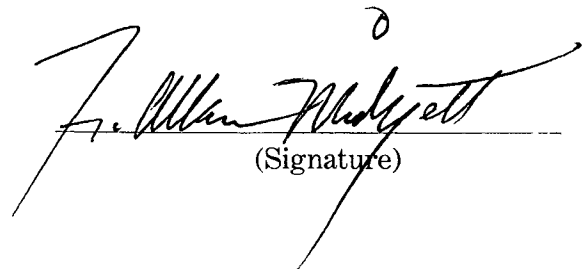
If yes, how much? \_\_\_\_\_

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.  
**The VA filed an adverse report to the NPDB which prohibits me from obtaining employment as shown in Walker v Memorial Health, 231 f. Supp3d@ 210 (E.D. Tex., 2017)**

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

Executed on: 3 January, 2021

  
(Signature)

# Monthly Expenses & Income

	FAM	CDS	Combined
Mortgage/Rent	\$ 2,500	\$ 2,604	\$ 5,104
Utilities	\$ 250	\$ 53	\$ 303
Home Maintenance	\$ 250	\$ -	\$ 250
Food	\$ 150	\$ 150	\$ 300
Laundry	\$ 10	\$ 10	\$ 20
Renter's Ins/Umbrella	\$ -	\$ 15	\$ 15
Life Insurance	\$ -	\$ 37	\$ 37
Health Insurance	\$ 159	\$ 218	\$ 377
Motor Vehicle Insurance	\$ 67	\$ -	\$ 67
Medical Expenses	2300*	300~	\$ -
Transportation	\$ 10	\$ 10	\$ 20
Taxes	\$ -	\$ 2	\$ 2
Credit Cards	\$ 932	\$ -	\$ 932
Motor Vehicle Loan Pmt	\$ 161		\$ 161
<b>Monthly Expenses Total</b>	<b>\$ 4,488</b>	<b>\$ 3,098</b>	<b>\$ 7,587</b>
<b>Monthly Income</b>	<b>\$ 2,706</b>	<b>\$ 1,563</b>	<b>\$ 4,269</b>
<b>Monthly Expenses</b>	<b>\$ 4,488</b>	<b>\$ 3,098</b>	<b>\$ 7,587</b>
<b>Monthly Deficit</b>	<b>\$ (1,782)</b>	<b>\$ (1,536)</b>	<b>\$ (3,318)</b>

\* Petitioner is a patient at Minnesota's Mayo Clinic where he is currently being treated with chemotherapy, radiation and surgery. The chemotherapy induced cardiac toxicity has caused supra ventricular tachycardia (SVT).

. ~ Petitioner's spouse suffers sequelae from surgery and chemotherapy related to ovarian carcinoma.

01/18/2021

# Assets

## I Home

Proposed Sale Price	\$ 650,000.00	\$	650,000.00
Commission	6%	\$	39,000.00
After Commission		\$	611,000.00
Mortgages	First	\$	347,196.83
	2nd	\$	98,000.00
		\$	445,196.83
After Commission		\$	611,000.00
Mortgages		\$	445,196.83
<b>Proposed Net Value</b>		<b>\$</b>	<b>165,803.17</b>

## II Motor Vehicle I

2010 Chrysler PT Cruiser			
Average Sale Price		\$	3,158.00

## III Motor Vehicle II

2004 Chrysler Crossfire			
Not Running or Licensed			
Estimated Value		\$	1,000.00

<b>Totals</b>			<b>169961.17</b>
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