

20-7015
In the
Supreme Court of the United States

ORIGINAL



DR. SABINA BURTON,
Plaintiff-Appellant-Petitioner

v.

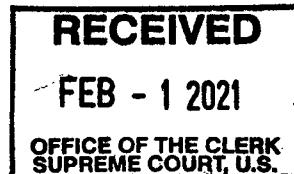
Appellate Case: 20-1579

District Case: 3:14-cv-00274-jdp

BOARD OF REGENTS UNIVERSITY OF
WISCONSIN, DR. THOMAS CAYWOOD,
DR. ELIZABETH THROOP and DR.
MICHAEL DALECKI,

Defendants-Appellees

MOTION FOR LEAVE TO PROCEED
IN FORMA PAUPERIS



Petitioner, SABINA BURTON respectfully requests that this Court grant her Motion for Leave to Proceed *in forma pauperis* on her attached petition for writ of certiorari. In support of this Motion, Plaintiff states as follows:

1. Petitioner herewith submits her Affidavit in Support of Motion indicating her financial status.
2. Plaintiff brings this appeal pro se because the district court granted, over Petitioner's strenuous objections, her former attorney's motion to withdraw and because of her financial circumstances.
3. Petitioner previously moved the district court for permission to appeal *in forma pauperis* on October 4, 2020 in her second federal lawsuit in the U.S. District Court, Western District of Wisconsin (Madison), CASE No. 3:17-cv-00036-jdp. (*Burton II*-Dkt. 123). The district court granted permission on October 16, 2020. (*Burton II*-Dkt. 127).

WHEREFORE, Plaintiff respectfully requests that this Court grant this Motion for leave to proceed *in forma pauperis*.

Respectfully submitted,



Sabina Burton
Petitioner

Dated: January 25, 2021

2689 S. River Rd.,
Galena IL 61036
Telephone: 608-331-0203

FORM 4.
AFFIDAVIT ACCOMPANYING MOTION FOR
PERMISSION TO APPEAL IN FORMA PAUPERIS
In the Supreme Court of the United States

DR. SABINA BURTON,
Plaintiff-Appellant-Petitioner

v.

Appellate Case: 20-1579

District Case: 3:14-cv-00274-jdp

**BOARD OF REGENTS UNIVERSITY OF
WISCONSIN, DR. THOMAS CAYWOOD,
DR. ELIZABETH THROOP and DR.
MICHAEL DALECKI,**

Defendants-Appellees

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.)

Signed: 

Petitioner, Sabina Burton

2689 S. River Rd.,
Galena IL 61036

Telephone: 608-331-0203

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.

Date: January 23, 2021

My issues on petition are:

1. Whether discovery violations can constitute the type of extraordinary circumstances which would justify relief on the basis of fraud on the court, and what test should be used to determine whether fraud on the court has occurred in circumstances involving discovery violations and newly discovered evidence.
2. Whether the district court abused its discretion by denying Burton's Rule 60(b)(6) motion and her Rule 37 motion, which the district court construed to allege fraud on the court, where it failed to consider the merits; applied an inapplicable time limit; failed to consider the factors mandated by Congress in the Speedy Trials Act; failed to decide whether Defendants or their attorneys committed spoliation of evidence; failed to decide whether Defendants or their attorneys violated policy or law; failed to decide whether Defendants or their attorneys committed discovery violations; failed to decide whether Defendants or their attorneys acted in bad faith; relied on clearly erroneous factual determinations; failed to consider that Burton was prejudiced; applied an inapplicable one year time limit; failed to consider Burton's inability to bring the motion within one year; failed to adequately articulate its reasoning for the decision; and failed to consider the public importance of this case.
3. Whether the appellate court sanctioned the district court's abuse of discretion by failing to meaningfully review the case.

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.

	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$_0_	\$_0_	\$_0_	\$_0_
Self-employment	\$_158_	\$_158	\$_158_	\$_158_
Income from real property (such as rental income)	\$_770_	\$_770_	\$_0_	\$_0_
Interest and dividends	\$_13_	\$_13_	\$_0_	\$_0_
Gifts	\$_100_	\$_100_	\$_0_	\$_0_
Alimony	\$_0_	\$_0_	\$_0_	\$_0_
Child support	\$_0_	\$_0_	\$_0_	\$_0_
Retirement (such as social security, pensions, annuities, insurance)	\$_96_	\$_0_	\$_576_	\$_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_	\$_0_
Total monthly income:	\$_1,137	\$1,041	\$_734	\$_158

See Attached.

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
None			

See Attached

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
None			

4. How much cash do you and your spouse have? \$ 300

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	Amt spouse has
US Bank	IRA	\$11,116	0
US Bank	Checking	\$2,453*	\$2,453*
US Bank	Savings	0	0
Dupaco Credit Un	checking	0	0
Dupaco Credit Un	Savings	275*	275*

*Money in checking and savings accounts are due for numerous debts. We are making minimum payments to credit card debt, attorney fees, loans and other mounting debts with no way to pay them off.

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) _____ <u>\$250,000</u> _____ <u>See Attached</u>	Other real estate (Value) _____ <u>0</u> _____	Motor Vehicle #1 (Value) _____ Make & year: <u>Subaru 2015</u> Model: <u>Outback</u> Registration # <u>660-464</u>
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Motor Vehicle #2 (Value) _____ Make & year: <u>Dodge 2005</u> <u>\$6,000</u> Model: <u>Ram 1500</u> Registration # <u>2692783</u>	Other assets (Value) _____ 2015 Subaru Impreza <u>\$13,000</u> _____ <u>Reg # 660-465</u>	Other assets (Value) _____ 1967 tractor <u>\$3,500</u> , Riding mowers <u>\$500</u> _____ 1995 Skid steer <u>\$2,500</u> _____ Horse trailers <u>\$2,000</u>
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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>none</u> _____ _____	_____ _____	_____ _____
_____ _____	_____ _____	_____ _____
_____ _____	_____ _____	_____ _____

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

Name [or, if under 18, initials only] _____ <u>None</u> _____ _____	Relationship _____ _____	Age _____ _____
_____ _____	_____ _____	_____ _____
_____ _____	_____ _____	_____ _____
_____ _____	_____ _____	_____ _____

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.

See Attached

You Your spouse

Rent or home-mortgage payment (including lot rented for mobile home) \$ 193_ \$ 193

Are real estate taxes included? [] Yes [X]No
Is property insurance included? [] Yes [X]No

Utilities (electricity, heating fuel, water, sewer, and telephone) \$ 343 \$ 343

Home maintenance (repairs and upkeep) \$ 450_ \$ 450_

Food \$ 400_ \$ 400_

Clothing \$ 100 \$ 100

Laundry and dry-cleaning \$ 50_ \$ 50_

Medical and dental expenses \$ 500 \$ 500_

Transportation (not including motor vehicle expenses) \$ 25_ \$ 25_

Recreation, entertainment, newspapers, magazines, etc. \$ 100_ \$ 100_

Insurance (not deducted from wages or included in mortgage payments)

Homeowner's or renter's \$ 61_ \$ 61_

Life \$ 72_ \$ 198_

Health \$ 264_ \$ 0_

Motor vehicle \$ 57_ \$ 57_

Other: (horse and rental liability) \$ 100 \$ 100

Taxes (not deducted from wages or included in mortgage payments) (specify): Property tax. \$ 186_ \$ 186_

Installment payments

Motor Vehicle \$ 207_ \$ 207

Credit card (US Bank Visa and lines of credit): Min pmt \$ 145 \$ 145_

Credit card (Sam's Club): Minimum pmt \$ 0_ \$ 0_

Credit card (American Express): Minimum pmt \$ 10_ \$ 10_

Credit Card (Chase Visa -Amazon): Minimum pmt \$ 10_ \$ 10_

Other: \$ 0 \$ 0

Alimony, maintenance, and support paid to others \$ 0_ \$ 0_

Regular expenses for operation of business, profession, or farm (attach detailed statement) \$ 555 \$ 555_

Other (specify): \$ ____ \$ ____

Total monthly expenses: \$3,828 \$3,690

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 N

If yes, describe: See attached.

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? \$ 447,815 See attached.

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

See Attached.

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

Galena, Illinois

Your daytime phone number: (608) 331-0203

Your age: 55 Your years of schooling: 20

**Attachment to AFFIDAVIT ACCOMPANYING MOTION FOR
PERMISSION TO APPEAL IN FORMA PAUPERIS**

1. Income

Self Employment: My husband and I started a horseback riding business in January 2020 and are also trying to provide a petting zoo service. This has provided me with therapy for my PTSD and provides a small income. We expect business will be slow during winter months and to improve somewhat next spring and summer.

Income from Real Property: We started a vacation rental business in January 2020, but we were informed by the county that we must stop advertising and use of the units until we receive special use zoning and a guest accommodation license. We have obtained the special use zoning, which required an investment of approximately \$18,275 for a new septic system. We also spent \$1,325 for fencing

damaged by construction access. The prospects for this business are good, but we used credit cards to complete the septic system and are paying minimum payments each month to stay solvent. We are still working on getting a guest accommodation license and hope to have it within a month, if we pass the inspection. Until we get the license we will make no income from our empty rental units.

Retirement: I am now receiving retirement benefits of \$576 per month. The amount of retirement benefit is small because my career was unfairly cut short.

Disability: I have applied for disability due to my severe ulcers, PTSD, and knee injuries. I have not been informed yet whether my application will be approved. Illinois Department of Human Services Division of Rehabilitation Services, Disability Determination have scheduled me for my second medical assessment in early January 2021. I might get something, but I can't count on anything.

2. Employment History

Employment: I graduated at the top of my class in college. I got my PhD from one of the world's most prestigious universities in the field of Criminal Justice, University of California Irvine, where I excelled. Since I was fired from my position as a tenured criminal justice professor at UW Platteville, Wisconsin, and my reputation was unfairly ruined, I have not been able to obtain employment in my chosen field. My husband and I bought a horse stable that needed much repair. We have been training our 7 horses and repairing the stable. This has generated no income, but has increased the value of the property and the value of our fledgling horse business. In order to accomplish the repairs, we needed to steeply mortgage the property. Our loans using the property as collateral amount to about 100% of the market value of the property. If we are able to obtain the guest accommodation license the value of the property should increase and we should begin to make good income.

5. Assets

Our home is an equestrian center that was very run down when we bought it as a fixer upper. Our name is on the deed, but we borrowed more against the property than the \$250,000 we paid for it. We have a mortgage for \$230,760 with a balloon payment due in a few short years. We borrowed another \$70,000 in exchange for lifetime use of one of the units. If we sold the property, we may owe more than we get from the sale. Value of the property should increase if we are able to obtain the required licensing to run our vacation rental business.

8. Expenses

Farm Expenses: We have seven horses and several petting zoo animals. These are a great draw for vacation rentals and are necessary to operate the business as we plan. These are expenses we are paying even though we are not making any money on a rental business yet and even though winter months are slow for the horse and petting zoo business.

Land Line Telephone:	\$ 70
Cell phone/internet/advertising:	\$ 350
Hay and feed for horses and other farm animals:	\$ 480
Veterinary costs	\$300
Farrier (horse hoof trimming)	<u>\$150</u>
Total Monthly Farm Expenses	\$1,350

9. Changes

We are prohibited from using our rental units for transient rentals until we correct compliance issues and get licensed, so our income from that business is expected to be zero unless and until we can get a guest accommodation license. This is a recent occurrence that dashed our expectations for income in coming months. Instead of making money from rentals we will need to spend money we don't have to get a guest accommodation license. The horse business has always been planned as income secondary to the guest accommodations and is not expected to make much income. My retirement income will not offset the losses we suffer. Meanwhile, expenses have been increasing. The animals still need to eat and to be cared for and maintenance and repairs still needs to be performed. We may lose our home and the business we've worked hard to get started. Covid 19 may affect our planned rental business as well. We may need to operate at a reduced capacity due to pandemic concerns, which would limit our income even if we are able to get the guest accommodation license soon.

10. Legal Costs

The cost of lawsuits associated with the events which led to my dismissal and ruination of my career, reputation, and health have been staggering. Never would I have believed at the beginning of this arduous journey that I would have had to spend half a million dollars to gain opportunity to finally tell my story. The financial toll this has taken on me and my family is devastating. I still owe attorneys for work they completed, and I cannot pay them right now.

11. Other Information

I lost my career, my reputation and my health due to the retaliation I received at UW Platteville. Now, my family's financial wellbeing has been destroyed due to the extensive legal costs and protracted legal battles I and my family have been forced to endure. The university failed to provide me with one year of severance pay, as it is required to do for termination of a tenured faculty member. The university fired me unfairly and their disciplinary findings caused the unemployment office to deny my request for unemployment insurance payments after my termination. I am plagued with health issues. Our daughter lost her job due to the Coronavirus and the unemployment office was extremely slow to provide her with any aid and now has suspended the aid she was receiving until she can verify her identity again. We aided her financially while she awaited a decision by the unemployment department and wish we could do more.

My husband and I finally started our own rental business in late December 2019. The pandemic shut us down for a few months and when we finally got going again, the county shut us down for the rentals due to compliance issues which have been expensive to rectify, and more costs may await us. We were turned down for a business loan, so the only way we could pay for the investment was by using credit cards, which currently have a balance due of \$31,586 or selling cars or equipment we need to operate the farm and vacation rental business.

Pain in my knees is very bad. I really need an operation to replace my knees, but that may need to wait a long time. My husband and I are forced to pay for our necessary expenses with our credit cards, going further in credit card debt until our business makes money again. The stress of not knowing how to afford living and health expenses has further aggravated my already debilitating anxiety and depression. I believe with all my heart that the university has retaliated against me for having reported sexual harassment and abuse. But this is not just a feeling. I have proof. For the past 8 years I have been fighting for a fair and unbiased hearing and have never been afforded one.

Please allow me to proceed in forma pauperis. I believe strongly that my case can make a difference in the way universities, and other employers, handle sexual harassment complaints and make the world safer for potential victims of sexual harassment, and their advocates. I could have saved myself and my family a lot of pain and expense by ignoring the injustices I have uncovered. But this is not just about me, or my family. This case is about all the victims who will come after me if I am not able to continue this fight to effect change, and all the people who will never be victimized if I am.