

20-8090

IN THE  
SUPREME COURT OF THE UNITED STATES

A18-1124 → A20-0633

No. 20-0633 → A20-0633

OFFICE OF  
APPELLATE COURTS

STATE OF MINNESOTA

MAR 16 2021

IN THE SUPREME COURT OF MINNESOTA

FILED

Emem Ufot Udoth,  
Petitioner,

Supreme Court, U.S.  
FILED

APR 21 2021

OFFICE OF THE CLERK

v.  
STATE OF MINNESOTA  
Respondent.

MOTION FOR LEAVE TO PROCEED  
IN FORMA PAUPERIS (IFP) AT THE  
SUPREME COURT OF MINNESOTA  
PURSUANT TO MINN. R. CIV. APP. P.  
109.04 FOR WAIVER OF FILING FEES  
AND FOR TRANSCRIPT PREPARATION  
COSTS

PETITIONER ADOPTS THE AFFIDAVIT AND/OR DECLARATIONS  
FILED IN CERTIORARI NO. 20-7389, 20-7390, 20-7563,  
20-7564 INTO THIS MOTION TO PROCEED IFP.

TO: SUPREME COURT OF MINNESOTA; CLERK OF THE APPELLATE COURTS; AND  
RESPONDENT

Petitioner, Emem Ufot Udoth, respectfully brings forth this motion for leave to proceed in  
forma pauperis at the Supreme Court of Minnesota. In support of this motion, Petitioner  
asserts the following: Petitioner adopts the affidavit and/or declarations filed in Certiorari No. 20-7389,  
20-7390, 20-7563, 20-7564 into this motion to proceed IFP.

1. On February 27, 2019, Petitioner was granted IFP to proceed at the Supreme Court of Minnesota on his petition for review in A18-1804 Appeal. See the district court registry of actions in Index No. 294 and the appellate record in eAppeal No. 246, Pages 48 - 48.
2. Petitioner's financial status has not changed since February 27, 2019. See the enclosed Affidavit for Proceeding IFP (Inmate). See also State v. Udoth, A20-0956 (Minn. Sup. Ct. September 15, 2020 Order) where this Court held that proceedings under Minn. Stat. §590.01 – 06 requires no filing fee and cost.
3. Petitioner, appearing pro se in this matter, hereby motion for leave to proceed informa pauperis pursuant to Minn. R. Civ. App. P. 109.04 for waiver of filing fees and for transcript preparation costs at this Court.
4. Petitioner declares under penalty of perjury that the information contained therein is true and correct. 28 U.S.C §1746, 18 U.S.C §1621, Minn. Stat. §358.116.

Dated: February 19, 2021

Respectfully Submitted,

Ufot Udoth

Emem U. Udoth, 245042, 7600 525<sup>TH</sup> Street, Rush City, MN 55069

IN THE SUPREME COURT OF U.S.

MAR 16 2021

A20-0633 ~~A20-0633 ATR-1129~~

FILED

State of Minnesota

District Court

County of: Select County <u>Hennepin</u>	Judicial District: <u>Minnesota Supreme Ct.</u> Court File Number: <u>A20-0633</u> Case Type: <u>Post-Conviction</u>
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Emem Ufot Udoh

Plaintiff/Petitioner (first, middle, last)

vs.

State Of Minnesota

Defendant/Respondent (first, middle, last)

**Affidavit for Proceeding  
In Forma Pauperis (Inmate)**

(Minn. Stat §§563.01, 563.02)

- I am a party in this action. I am not represented by counsel, I have been convicted of a felony and I am committed to the custody of the Commissioner of Corrections. I am either confined in a state correctional facility or I have been released from a state correctional facility under section Minn. Stat. §§ 244.065 or 244.07.
- I believe I have valid reasons for pursuing this action. In good faith, I request an order waiving court fees and costs. **My pleadings** (the *Petition, Complaint, Answer, Appeal* or other pleading) **are attached**. NOTE: If you are the person bringing the case, known as the plaintiff, the statute requires you provide the court with a copy of the *Complaint* **before** serving the complaint on the opposing party.
- The following information is required. You must complete each section.**

a. I have the following dependents: Call, and C.U. (2)b. My net (take home) monthly income is 0.00c. The source of my monthly income is None

d. If available to you, your spouse's net (take home) monthly income is \_\_\_\_\_

e. I pay 0.00 per month in child care support.f. I pay 0.00 per month for rent/mortgage payment.

g. I own the following property:

1. Cash 0.002. Checking, savings, and credit union accts 0.00

3. Cars, other vehicles (list make, year and equity value (market value minus unpaid loans) for each

a. None 0.00b. None 0.00

4. Real Estate (market value minus unpaid mortgage/loans)

a. None 0.00b. None 0.00

5. Other personal property (jewelry, stocks, bonds, etc. - list separately)

CONFIDENTIAL

a. None 0.00  
b. None 0.00

h. I am presently 0.00 in debt.

i. I have the following monthly expenses:

j. Other factors which support this are: (explain unusual medical expenses, emergencies or other circumstances to help the judge understand your situation):

6.  I have exhausted the inmate complaint procedure developed by the Commissioner of Corrections before commencing this action against the Department of Corrections.

7.  My claim is not substantially similar to a previous claim brought against the same party, arising from the same facts, and which resulted in a adjudication on the merits.

8.  My full name is \_\_\_\_\_ and I have been known by the following other names:

9.  I have attached a copy of my most recent monthly statement showing the balance in my inmate account. I authorize the Court to obtain at any time during the pendency of this action a current statement of the balance of my inmate account. NOTE: An inmate who has funds in an inmate account may only proceed as a plaintiff in a civil action by paying either the applicable court filing fee or 50% of the balance in the inmate account, whichever is less. If 50% of balance of the inmate account is used to commence the civil action, the Commissioner of Corrections will continue to draw money out of the inmate account until the filing fee is paid in full.

By signing this Affidavit, I am certifying that these statements are true under penalty of perjury. I understand that if I provide false information on the form it may lead to criminal charges. I understand that failure to execute the form or failure to provide information or requested records may result in denial of my motion to proceed In Forma Pauperis. I am authorizing that the facts contained in this Affidavit may be verified by any means required.

Dated: March 10, 2021

Umen U. Udoji

Signature

Name: Umen U. Udoji, 245042

Address: 7600 525th Street

City/State/Zip: Rush City, MN 55069

Telephone: \_\_\_\_\_

E-mail address: \_\_\_\_\_

No. \_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES

Emen Ufot Udoh — PETITIONER  
(Your Name)

VS.

United States District Court, Minnesota — 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):

Udoh v. Dooley, Civil No. 16-cv-4174 (PAM/HB), docket No. 79, July 29, 2020

Udoh v. Dooley, Civil No. 16-cv-4174 (PAM/HB), November 24, 2020

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.

Ufot Udoh

(Signature)

**IN THE**  
**SUPREME COURT OF THE UNITED STATES**

Emem Ufot Udo )  
 Plaintiff/Petitioner )  
 v. )  
 )  
UNITED STATES DISTRICT COURT, MINNESOTA )  
 Defendant/Respondent )

**USCA8 Appellate Case No. 20-2952**

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

<b>Affidavit in Support of the Application</b>	<b>Instructions</b>
<p>I am a plaintiff or petitioner in this case and declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief requested. I declare under penalty of perjury that the information below is true and understand that a false statement may result in a dismissal of my claims.</p> <p>Signed: <u>Ufot Udo</u></p>	<p>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 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.</p> <p>Date: <u>March 08, 2021</u></p>

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 amount, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly income amount during the past 12 months		Income amount expected next month	
	You	Spouse	You	Spouse
Employment	\$ 0	\$	\$ 0	\$
Self-employment	\$ 0	\$	\$ 0	\$
Income from real property (such as rental income)	\$ 0	\$	\$ 0	\$
Interest and dividends	\$ 0	\$	\$ 0	\$
Gifts	\$ 0	\$	\$ 0	\$
Alimony / Child Support	\$ 0	\$	\$ 0	\$

## AO 239 (01/09; Minn. Dist. Ct. MODIFIED 10/09) Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)

Retirement (such as social security, pensions, annuities, insurance)	\$ 0	\$	\$ 0	\$
Disability (such as social security, insurance payments)	\$ 0	\$	\$ 0	\$
Unemployment payments	\$ 0	\$	\$ 0	\$
Public-assistance (such as welfare)	\$ 0	\$	\$ 0	\$
Other (specify):	\$ 0	\$	\$ 0	\$
<b>Total monthly income:</b>	<b>\$ 0.00</b>	<b>\$ 0.00</b>	<b>\$ 0.00</b>	<b>\$ 0.00</b>

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	N/A	N/A	\$ 0
None	N/A	N/A	\$ 0

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
			\$
			\$
			\$

4. How much cash do you and your spouse have? \$ 0

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
None	N/A	\$ 0	\$
None	N/A	\$ 0	\$
None	N/A	\$ 0	\$

If you are a prisoner, you must have an authorized prison official complete the Certificate of Authorized Prison Official provided on Page 6 of this application. The certificate must be filed with this application.

## AO 239 (01/09; Minn. Dist. Ct. MODIFIED 10/09) Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)

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

Assets owned by you or your spouse		
Home (Value)	\$	0
Other real estate (Value)	\$	0
Motor vehicle #1 (Value)	\$	0
Make and year:		
Model:		N/A
Registration #:		
Motor vehicle #2 (Value)	\$	0
Make and year:		
Model:		N/A
Registration #:		
Other assets (Value)	\$	0
Other assets (Value)	\$	0

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	\$ 0	\$
None	\$ 0	\$
None	\$ 0	\$

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

Name (or, if under 18, initials only)	Relationship	Age
C.U.	Son	8 years
C.U.	Son	8 years

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.

	You	Your spouse
Rent or home-mortgage payment ( <i>including lot rented for mobile home</i> ) 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	\$ 0	\$
Utilities ( <i>electricity, heating fuel, water, sewer, and telephone</i> )	\$ 10	\$
Home maintenance ( <i>repairs and upkeep</i> )	\$ 0	\$
Food	\$ 40	\$
Clothing	\$ 10	\$
Laundry and dry-cleaning	\$ 10	\$
Medical and dental expenses	\$ 10	\$
Transportation ( <i>not including motor vehicle payments</i> )	\$ 0	\$
Recreation, entertainment, newspapers, magazines, etc.	\$ 0	\$
Insurance ( <i>not deducted from wages or included in mortgage payments</i> )	N/A	
Homeowner's or renter's:	\$ 0	\$
Life:	\$ 0	\$
Health:	\$ 0	\$
Motor vehicle:	\$ 0	\$
Other:	\$ 0	\$
Taxes ( <i>not deducted from wages or included in mortgage payments</i> ) (specify):	\$ 0	\$
Installment payments	N/A	
Motor vehicle:	\$ 0	\$
Credit card ( <i>name</i> ):	\$ 0	\$
Department store ( <i>name</i> ):	\$ 0	\$
Other:	\$ 0	\$
Alimony, maintenance, and support paid to others	\$ 0	\$

## AO 239 (01/09; Minn. Dist. Ct. MODIFIED 10/09) Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)

Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ 0	\$
Other (specify): Legal stationery, envelopes, and stamps	\$ 30	\$
Total monthly expenses:	\$ 110.00	\$ 0.00

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 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 these proceedings.

13. Identify the city and state of your legal residence.

Rush City, Minnesota

Your daytime phone number: N/A

Your age: N/A Your years of schooling: N/A

**Prisoners:** The following Certificate page *must* be completed by an authorized prison official and provided with this application.

The following Certificate of Authorized Prison Official must be completed and filed with a prisoner's Application to Proceed without Prepayment of Fees and Affidavit for all incarcerated applicants. See 28 U.S.C. § 1915(a)(2) (a prisoner who applies to proceed without prepayment of fees must provide a certified copy of the trust fund account statement "obtained from the appropriate official of each prison at which the prisoner is or was confined"). The information provided below will be used by the Court in determining the proper initial partial filing fee as defined under 28 U.S.C. § 1915(b).

**RECEIVED BY MAIL**

FEB 17 2021

**CERTIFICATE of AUTHORIZED PRISON OFFICIAL**

CLERK, U.S. DISTRICT COURT  
DULUTH, MINNESOTA

I, Darcie Koecher, certify that the incarcerated applicant

Udoh Emem #245042 (name of applicant) has the sum of \$ 876.05 on account to his/her credit at MCF - Rush City (name of institution). I further certify that the applicant named herein has the following securities to his/her credit:

Gate = \$500

I further certify that in the 6-month period immediately preceding the filing of the complaint/petition/motion or notice of appeal, the average monthly deposits to the applicant's trust fund prison account was

\$ 264.18, and the average monthly balance in the prisoner's account was  
\$ 466.19.

1/19/21

DATE

*Darcie Koecher*

SIGNATURE OF AUTHORIZED OFFICIAL

**SCANNED**

FEB 17 2021

*MB*

U.S. DISTRICT COURT DULUTH