

No. 21-5269

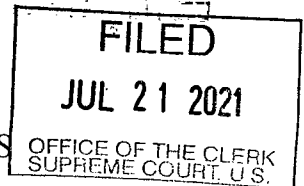
IN THE
SUPREME COURT OF THE UNITED STATES

Toy Terrell Smith — PETITIONER
(Your Name)

VS.

J. Torres, et al. — 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):
① U.S. District Court (Eastern District, California) ② U.S. Court of Appeal (9th Circuit)
Court Approval Orders attached at, "A" and "B"

☐ 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: _____
N/A, or

☐ a copy of the order of appointment is appended.

Toy Terrell Smith
(Signature)

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

I, Toy Terrell Smith, 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>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Self-employment	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Income from real property (such as rental income)	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Interest and dividends	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Gifts	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Alimony	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Child Support	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Disability (such as social security, insurance payments)	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Unemployment payments	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Public-assistance (such as welfare)	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Other (specify): _____	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Total monthly income:	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</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
N/A	N/A	N/A	\$ 0
			\$ 0
			\$ 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
N/A	N/A	N/A	\$ 0
			\$ 0
			\$ 0

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.

Type of account (e.g., checking or savings)	Amount you have	Amount your spouse has
None	\$ 0	\$ 0
	\$ 0	\$ 0
	\$ 0	\$ 0

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

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

☐ Other assets
Description N/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
<u>None</u>	\$ <u>0</u>	\$ <u>N/A</u>
_____	\$ <u>0</u>	\$ <u>N/A</u>
_____	\$ <u>0</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>None</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>0</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>0</u>	\$ <u>N/A</u>
Home maintenance (repairs and upkeep)	\$ <u>0</u>	\$ <u>N/A</u>
Food	\$ <u>0</u>	\$ <u>N/A</u>
Clothing	\$ <u>0</u>	\$ <u>N/A</u>
Laundry and dry-cleaning	\$ <u>0</u>	\$ <u>N/A</u>
Medical and dental expenses	\$ <u>0</u>	\$ <u>N/A</u>

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ 0	\$ N/A
Recreation, entertainment, newspapers, magazines, etc.	\$ 0	\$ N/A
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ 0	\$ N/A
Life	\$ 0	\$ N/A
Health	\$ 0	\$ N/A
Motor Vehicle	\$ 0	\$ N/A
Other: N/A	\$ 0	\$ N/A
Taxes (not deducted from wages or included in mortgage payments)		
(specify): N/A	\$ 0	\$ N/A
Installment payments		
Motor Vehicle	\$ 0	\$ N/A
Credit card(s)	\$ 0	\$ N/A
Department store(s)	\$ 0	\$ N/A
Other: N/A	\$ 0	\$ N/A
Alimony, maintenance, and support paid to others	\$ 0	\$ N/A
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ 0	\$ N/A
Other (specify): N/A	\$ 0	\$ N/A
Total monthly expenses:	\$ 0	\$ N/A

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:

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.

NONE

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

Executed on: July 20, 2021

Troy Terrell Smith
(Signature)

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

OCT 29 2019

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

TOY TERRELL SMITH,

Plaintiff - Appellant,

v.

J. TORRES, Correctional Counselor; et
al.,

Defendants - Appellees,

and

R. MICHAEL HUTCHINSON; et al.,

Defendants.

No. 19-17042

D.C. No. 1:16-cv-01924-LJO-IDP
U.S. District Court for Eastern
California, Fresno

ORDER

Appellant Toy Terrell Smith, prison identification number D-92679, has been granted leave to proceed in forma pauperis in this appeal and has completed and filed the required authorization form directing the appropriate prison officials to assess, collect, and forward to the district court the filing and docketing fees for this appeal pursuant to 28 U.S.C. § 1915(b)(1) and (2). This court hereby assesses an initial filing fee of 20 percent of the greater of (A) the average monthly deposits

~~to the prisoner's account; or (B) the average monthly balance in the prisoner's~~
account for the six-month period immediately preceding the filing of the October
15, 2019 notice of appeal. Appellant is not responsible for payment when the funds
in appellant's prison trust account total less than \$10, but payments must resume
when additional deposits are made or funds are otherwise available.

The Clerk shall serve this order and appellant's completed authorization
form on the Attorney General for the State of California, who shall notify the
appropriate agency or prison authority responsible for calculating, collecting, and
forwarding the initial payment assessed in this order and for assessing, collecting,
and forwarding the remaining monthly payments of the fee to the district court for
this appeal. *See* 28 U.S.C. § 1915(b)(2). Each payment should be accompanied by
the district court and appellate docket numbers for this appeal and a record of
previous payments made for this appeal.

The Clerk shall also serve a copy of this order on the clerk and the financial
unit of the district court.

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

By: Cyntharee K. Powells
Deputy Clerk
Ninth Circuit Rule 27-7

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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

10 **TOY TERRELL SMITH ,**

1:16-CV-01924-EPG (PC)

11 Plaintiff,

**ORDER GRANTING APPLICATION
TO PROCEED IN FORMA PAUPERIS**

12 vs.

and

13 **R.M. HUTCHINSON, ET AL. ,**

**ORDER DIRECTING PAYMENT
OF INMATE FILING FEE BY
CALIFORNIA DEPARTMENT OF
CORRECTIONS**

14 Defendant(s).
15 _____ /

16 Plaintiff is a federal prisoner proceeding pro se pursuant to 403 U.S. 388 (1971) and has requested
17 leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. Plaintiff has made the showing
18 required § 1915(a) and accordingly, the request to proceed in forma pauperis will be granted.

19 Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action. 28 U.S.C. § 1915(b)(1).

20 Plaintiff is obligated to make monthly payments in the amount of twenty percent of the proceeding
21 month's income credited to plaintiff's trust account. The California Department of Corrections is
22 required to send to the Clerk of the Court payments from plaintiff's account each time the amount in
23 the account exceeds \$10.00, until the statutory filing fee is paid in full. 28 U.S.C. § 1915(b)(2).

24 In accordance with the above and good cause appearing therefore, IT IS HEREBY ORDERED
25 that:

- 26 1. Plaintiff's application to proceed in forma pauperis is GRANTED;

27 ////

1 2. The Director of the California Department of Corrections or his designee shall collect
2 payments from plaintiff's prison trust account in an amount equal to twenty percent (20%) of
3 the preceding month's income credited to the prisoner's trust account and shall forward those
4 payments to the Clerk of the Court each time the amount in the account exceeds \$10.00, in
5 accordance with 28 U.S.C. § 1915(b)(2), until a total of \$350.00 has been collected and
6 forwarded to the Clerk of the Court. The payments shall be clearly identified by the name
7 and case number assigned to this action.

8 3. The Clerk of the Court is directed to serve a copy of this order and a copy of plaintiff's in
9 forma pauperis application on the Director of the California Department of Corrections, via the
10 court's electronic case filing system (CM/ECF).

11 4. The Clerk of Court is directed to serve a copy of this order on the Financial Department,
12 U.S. District Court, Eastern District of California.

13 IT IS SO ORDERED.

14 DATED: January 5, 2017

/s/ Erica P. Grosjean
United States Magistrate Judge