

21 - 5605  
IN THE

SUPREME COURT OF THE UNITED STATES

MARK E. SELLS,

Plaintiff/Petitioner - Appellant,

v.

SCOTT CROW, Director,

Defendant/Respondent -  
Appellee.

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

Motion for Leave to Proceed  
on Appeal Without  
Prepayment of Costs or Fees  
(non-PLRA)

ORIGINAL

FILED

AUG 24 2021

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

I, Mark E. Sells, a veteran (Appendix L), the petitioner/appellant in the captioned case move this court for leave to proceed in forma pauperis.

In support of this motion, I state that because of my poverty, I am unable to pay the costs of said proceedings or give security therefor, I submit the following financial declaration.

RECEIVED

SEP - 3 2021

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

## FINANCIAL DECLARATION

### Affidavit to Accompany Motion for Permission to Appeal in Forma Pauperis

I swear or affirm under penalty of perjury that because of my poverty I am unable to pay the docket fees of my appeal or to post a bond for them. I believe I am entitled to a different result than that reached in the district court.

I further swear or affirm under penalty of perjury that the responses which I have made to the questions and instructions below relating to my ability to pay the fees for my appeal are true.

**Instructions.** Please complete all questions in this application and then sign it on the last page. If the answer to any question is "0" or "none," or the question is "not applicable", so indicate by writing "0", "none", or "not applicable (N/A)". If additional space is needed to answer any question or to explain your answer to any question, please use and attach a separate sheet of paper identified with your name, the docket number of your case and the number of the question.

My issues on appeal are:

- Actual INNOCENCE: 2 claims;
- Was Habeas Petition timely filed under 28 USC § 2244(d)(1)(A);
- Is the 28 USC § 2244(d)(1)(A) start date when you know you need a factual predicate, or the date you discover the existence of it?
- Is Judicial Estoppel or Equitable Tolling warranted, due to the State Court lying about and suppressing evidence;
- Did Petitioner act with appropriate 'Due Diligence' for Equitable Tolling;
- Does 'Time-Barriers' Habeas Petition violate the Suspension Clause?

1. Are you or your spouse currently employed? Yes \_\_\_\_\_ No X

2. If you or your spouse are currently employed, state the name and address of your employer, the length of your employment with that employer, and your monthly gross pay. Gross pay is pay before any taxes or other deductions are taken. If you have more than one employer, please provide the information requested below about the other employer(s) on a separate sheet of paper and attach it to this application.

Yourself: Inmate \$11.00/mo. Your Spouse: N/A

Name and Address of Employer

Okla. D.O.C.

Name and Address of Employer

N/A

Length of Employment

15

Years

Months

Length of Employment

Years

Months

Monthly Gross Pay \$ 11.00 ±Monthly Gross Pay \$ N/A

3. If you are currently unemployed, state the date of your last employment and your monthly gross pay during your last month of employment. Gross pay is pay before any taxes or other deductions are taken.

Date of last employment (Month/Year) for yourself 11-2002; spouse N/AMonthly gross pay during last month of employment \$ 2200.00 ±

4. State whether you or your spouse have received money from any of the following sources during the past twelve months, and, if so, the average monthly amount from that source. Adjust any money that was received weekly, bi-weekly, quarterly, semi-annually, or annually to show the monthly rate.

Did you receive money from any of the following sources during the past 12 months?

Average monthly amount during past 12 months for you and your spouse if applicable.

Amount expected next month

Self-employment

You

Y/N N\$ 0.00

Spouse

\$ N/A

You

\$ 0.00

Spouse

\$ N/A

Income from real property

(such as rental income)

Y/N N\$ 0.00\$ N/A\$ 0.00\$ N/A

Interest and dividends

Y/N N\$ 0.00\$ N/A\$ 0.00\$ N/A

Gifts

Y/N Y\$ 25.00\$ N/A\$ 0.00\$ N/A

Alimony

Y/N N\$ 0.00\$ N/A\$ 0.00\$ N/A

Child Support Y/N N \$ 0.00 \$ N/A \$ 0.00 \$ N/A

Retirement income from sources such as social security, private pensions, annuities, or insurance policies

Y/N N \$ 0.00 \$ N/A \$ 0.00 \$ N/A

Disability payments such as social security, other state or federal government, or insurance payments

Y/N N \$ 0.00 \$ N/A \$ 0.00 \$ N/A

Unemployment payments

Y/N N \$ 0.00 \$ N/A \$ 0.00 \$ N/A

Public assistance payments such as welfare payments

Y/N N \$ 0.00 \$ N/A \$ 0.00 \$ N/A

Other sources of money (specify: \_\_\_\_\_)

Y/N N \$ 0.00 \$ N/A \$ 0.00 \$ N/A

TOTAL

\$ N/A \$ 0.00 \$ N/A

5. State the amount of cash you and your spouse have: < \$ 160.00<sup>+</sup>

State below any money you or your spouse have in savings, checking, or other accounts in a bank or other financial institution.

Bank or Other Financial Institution:

Type of Account such as savings, checking, or CD:

Amount you have:

Amount your spouse has:

Navy Federal Credit Union

Checking

\$ 152.08

\$ N/A

Navy Federal Credit Union

Savings

\$ 6.89

\$ N/A

Okla. Dept of Corr. Trust Fund

Trust Fund Acct

\$ -50.00<sup>+</sup>

\$ N/A

*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.*

6. State below the assets owned by you and your spouse. **Do not list ordinary household furnishings and clothing.**

<b>Home</b>	Address: <u>NONE</u>	Value: \$ <u>0.00</u> Amount owed on mortgages and liens: \$ _____
<b>Other real estate</b>	Address: <u>NONE</u>	Value: \$ <u>0.00</u> Amount owed on mortgages and liens: \$ _____
<b>Motor vehicle</b>	Model/Year: <u>NONE</u>	Value: \$ <u>0.00</u> Amount owed: \$ _____
<b>Motor vehicle</b>	Model/Year: <u>NONE</u>	Value: \$ <u>0.00</u> Amount owed: \$ _____
<b>Other</b>	Description: <u>NONE</u>	Value: \$ <u>0.00</u> Amount owed: \$ _____

7. State below any person, business, organization, or governmental unit that owes you or your spouse money and the amount that is owed.

Name of Person, Business, or Organization that Owes You or Your Spouse Money	Amount Owed You:	Amount Owed Your Spouse:
<u>NONE</u>	\$ <u>0.00</u>	\$ <u>N/A</u>
<u>NONE</u>	\$ <u>0.00</u>	\$ <u>N/A</u>

8. State the individuals who rely on you and your spouse for support. Indicate their relationship to you, their age, and whether they live with you.

Name	Relationship	Age	Does this person live with you?	
<u>N/A</u>	<u>—</u>	<u>—</u>	Yes <u>      </u>	No <u>      </u>
<u>N/A</u>	<u>—</u>	<u>—</u>	Yes <u>      </u>	No <u>      </u>
<u>N/A</u>	<u>—</u>	<u>—</u>	Yes <u>      </u>	No <u>      </u>
<u>N/A</u>	<u>—</u>	<u>—</u>	Yes <u>      </u>	No <u>      </u>

9. Complete this question by estimating the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, bi-weekly, quarterly, semi-annually, or annually to show the monthly rate.

	You	Spouse
Rent or home mortgage payment (include lot rented for mobile home)	\$ <u>0.00</u>	\$ <u>N/A</u>
Are real estate taxes included? Yes <u>      </u> No <u>      </u> <u>N/A</u>		
Is property insurance included? Yes <u>      </u> No <u>      </u> <u>N/A</u>		
Utilities: Electricity and heating fuel	\$ <u>0.00</u>	\$ <u>N/A</u>
Water and sewer	\$ <u>0.00</u>	\$ <u>N/A</u>
Telephone	\$ <u>0.00</u>	\$ <u>N/A</u>
Other <u>                                </u>	\$ <u>0.00</u>	\$ <u>N/A</u>
Home maintenance (Repairs and upkeep)	\$ <u>0.00</u>	\$ <u>N/A</u>
Food	\$ <u>20.00</u>	\$ <u>N/A</u>
Clothing	\$ <u>0.00</u>	\$ <u>N/A</u>
Laundry and dry cleaning	\$ <u>0.00</u>	\$ <u>N/A</u>
Medical and dental expenses	\$ <u>4.00</u>	\$ <u>N/A</u>

Transportation (not including car payments)	\$ <u>0.00</u>	\$ <u>N/A</u>
Recreation, clubs and entertainment, newspapers, magazines, etc.	\$ <u>0.00</u>	\$ <u>N/A</u>
Charitable contributions	\$ <u>0.00</u>	\$ <u>N/A</u>
Insurance (not deducted from wages or included in home mortgage payments)		
Homeowner's or renter's	\$ <u>0.00</u>	\$ <u>N/A</u>
Life	\$ <u>0.00</u>	\$ <u>N/A</u>
Health	\$ <u>0.00</u>	\$ <u>N/A</u>
Auto	\$ <u>0.00</u>	\$ <u>N/A</u>
Other _____	\$ <u>0.00</u>	\$ <u>N/A</u>
Taxes (not deducted from wages or included in home mortgage payments) (specify) <u>N/A</u>		\$ <u>0.00</u>
Installment payments		
Auto:	\$ <u>0.00</u>	\$ <u>N/A</u>
Credit Card: (name) _____	\$ <u>0.00</u>	\$ <u>N/A</u>
Department Store: (name) _____	\$ <u>0.00</u>	\$ <u>N/A</u>
Other _____	\$ <u>0.00</u>	\$ <u>N/A</u>
Other _____	\$ <u>0.00</u>	\$ <u>N/A</u>
Alimony, maintenance, and support paid to others	\$ <u>0.00</u>	\$ <u>N/A</u>
Payments for support of additional dependents not living at your home	\$ <u>0.00</u>	\$ <u>N/A</u>
Regular expenses from operation of business, profession, or farm (attach detailed statement)	\$ <u>0.00</u>	\$ <u>N/A</u>
Other _____	\$ <u>0.00</u>	\$ <u>N/A</u>
 TOTAL MONTHLY EXPENSES	 \$ <u>24.00</u>	 \$ <u>N/A</u>

10. 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 X

If yes, describe on an attached sheet.

11. Have you spent- or will you be spending- any money for expenses or attorneys fees in connection with this case? Yes \_\_\_\_\_ No X Pro Se

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

If yes, provide the name, address, and telephone number of the attorney:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12. Have you promised to pay or do you anticipate paying anyone other than an attorney (such as a paralegal, typing service, or another person) any money for services in connection with this case, including the completion of this form? Yes \_\_\_\_\_ No X

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

If yes, provide the name, address, and telephone number of the person or service:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

13. How much can you pay each month toward the docket fee for your appeal:

\$ 1.00

14. Please provide any other information that helps to explain why you cannot pay the docket fees for your appeal.

*Copying costs and Notary Services at the prison (N&CC) law library are running me \$20-\$35/mo, to litigate all the Constitutional violations of my Civil Rights. I do not expect these costs/expenses to lessen in the next 12 months. Attached is my Okla. D.O.C. [copy] Trust Fund Account [6 months].*



15. State the city and state of your legal residence:

Mark E. Sells # 546774  
North Fork Correctional Center, CS # 251  
1605 E. Main Street  
Sage, OK 73662

Your daytime phone number:

( )

Your age: 58

Years of schooling: 12+

[Last four digits of] your social security number: 4375

U.S.M.C. - Honorably Discharged, 1984 - See: Appendix L.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT. 28 U.S.C. § 1746, 18 U.S.C. § 1621.

Date: 8-24-21

Signature:

Mark E. Sells