

No. **21-6281**

**ORIGINAL**

Supreme Court, U.S.  
FILED

**OCT 21 2021**

OFFICE OF THE CLERK

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

Mac Truong,  
*Debtor-Appellant-Petitioner*  
-against  
R. Kenneth Barnard, United States Trustee,  
Rosemary Ida Mergenthaler  
*Appellees-Respondents*

**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):

U.S. COURT OF APPEALS FOR THE THIRD CIRCUIT

U.S. COURT OF APPEALS FOR THE SECOND CIRCUIT

U.S. DISTRICT COURT FOR THE DISTRICT OF NJ

U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NY

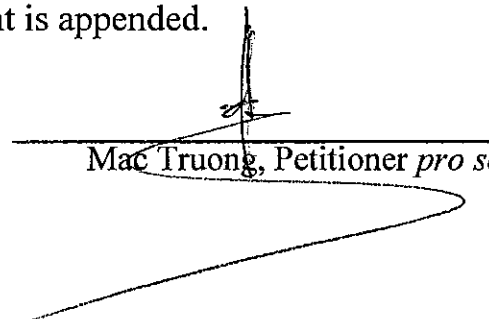
☐ Petitioner has not previously been granted leave to proceed in *forma pauperis* in any other court.

☐ 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.

  
Mac Truong, Petitioner *pro se*

# UNITED STATES SUPREME COURT

Case Number: \_\_\_\_\_

Mac Truong,  
*Debtor-Appellant-Petitioner*  
-against  
R. Kenneth Barnard, United States Trustee,  
Rosemary Ida Mergenthaler  
*Appellees-Respondents*

## PETITIONER MAC TRUONG PRO SE'S AFFIDAVIT ACCOMPANYING MOTION FOR PERMISSION TO FILE PETITION FOR A WRIT OF CERTIORARI IN FORMA PAUPERIS

### Affidavit in Support of Motion

I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees for my Petition for a Writ of Certiorari 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: X

### 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 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: 11/6/2021

1. My issues on appeal are: Did the USCA3 err as a matter of law when the Court dismissed Petitioner's appeal based on the Barton doctrine, while as a matter of law Petitioner did not need any prior court leave to sue Trustee-Respondent Barnard in the U.S. Bankruptcy Court for the District of New Jersey, which has the original subject-matter jurisdiction over Petitioner's causes of action against Respondents herein?

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.

2.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$0	\$0	\$0	\$0
Self-employment	\$0	\$0	\$0	\$0
Income from real property (such as rental income)	\$0	\$0	\$0	\$0
Interest and dividends	\$0	\$0	\$0	\$0
Gifts	\$0	\$0	\$0	\$0
Alimony	\$0	\$0	\$0	\$0
Child support	\$0	\$0	\$0	\$0
Retirement (such as social security, pensions, annuities, insurance)	\$1,225.00	\$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):	\$175.00	\$0	\$0	\$0
<b>Total monthly income:</b>	<b>\$1,400.00</b>	<b>\$0</b>	<b>\$1,400.00</b>	<b>\$0</b>

1. *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
0	n/a	n/a	\$0

2. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

**Note: My spouse and I are separated. In 2014, she went back to her country France and lives in Chantilly, far from me and my legal headaches that got her tired and unhappy.**

Employer	Address	Dates of employment	Gross monthly pay
0	n/a	n/a	\$0

3. How much cash do you have? \$ 700.00

*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
Lakeland Bank Teaneck, NJ	Checking	\$900	\$ 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.*

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

Home	Other real estate	Motor vehicle #1
(Value) \$0	(Value) \$0	(Value) \$0
		Make and year: Saturn 1994
		Model: SL2
		Registration #: CC566X

<b>Motor vehicle #2</b>	<b>Other assets</b>	<b>Other assets</b>
(Value) \$	(Value) \$	(Value) \$
Make and year:	n/a	n/a
Model:		
Registration #:		

5. *State every person, business, or organization owing you or your spouse money, and the amount owed.*

<b>Person owing you or your spouse money</b>	<b>Amount owed to you</b>	<b>Amount owed to your spouse</b>
Respondent R. Kenneth Barnard	\$575,000.00	\$ N/A
	\$	\$
	\$	\$
	\$	\$

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

<b>Name [or, if under 18, initials only]</b>	<b>Relationship</b>	<b>Age</b>
None	n/a	n/a

7. 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 (including lot rented for mobile home) 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	\$750.00	\$0
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$50.00	\$0
Home maintenance (repairs and upkeep)	\$0	\$0
Food	\$200	\$0
Clothing	\$20	\$0
Laundry and dry-cleaning	\$20	\$0
Medical and dental expenses	\$100	\$0
Transportation (not including motor vehicle payments)	\$100	\$0
Recreation, entertainment, newspapers, magazines, etc.	\$0	\$0
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's:	\$0	\$0
Life:	\$0	\$0
Health:	\$0	\$0
Motor vehicle:	\$100.00	\$0
Other:	\$0	\$0
Taxes (not deducted from wages or included in mortgage payments) (specify):	\$0	\$0
Installment payments		
Motor Vehicle:	\$0	\$0
Credit card (name):	\$0	\$0
Department store (name):	\$0	\$0
Other:	\$0	\$0

Alimony, maintenance, and support paid to others	\$0	\$0
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$0	\$0
Other (specify):	\$60.00	\$0
<b>Total monthly expenses:</b>	<b>\$1,400.00</b>	<b>\$0</b>

8. *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.

9. *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? \$*

10. *Provide any other information that will help explain why you cannot pay the docket fees for your appeal. I have barely enough money for food or rent*

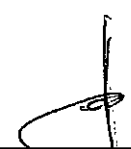
11. *State the city and state of your legal residence:* 63 Van Reypen Street, Jersey City, NJ 07306.

12. *The last four digits of my Social Security Number are:* 1959

13. *Your age:* 77 - *Born on* May 1, 1944

14. *Number of years of schooling:* 24 years

*Executed on:* November 6, 2021

  
**MAC TRUONG, Appellant-Petitioner**  
**875 Bergen Avenue, Jersey City, NJ 07306**  
**Phone: (914) 215-2304 -**  
**Dmtforest@aol.com**

# AFFIRMATION OF SERVICE

I, Mac Truong, affirm under the penalty of perjury as follows:

On November 8, 2021, I served by U.S. First Class Mail and/or email by depositing three true copies enclosed in a post-paid wrapper, in an official depository under the exclusive care of the U.S. Postal Service in the State of New York, of the within document(s):

## Petitioner Mac Truong's

- (i) MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS  
AND DECLARATION IN SUPPORT OF THE MOTION and/or
- (ii) OTHER SUPPORTING DOCUMENTS

upon all the following parties and/or individuals that need to be served:

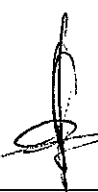
David Blansky, Esq.  
Attorney for R. K. Barnard  
3305 Jerusalem Avenue  
Wantagh, NY 11793

Rosemary Mergenthaler  
C/o IMDIT Pro Se  
875 Bergen Ave.  
Jersey City, NJ 07306

The U.S. Trustee  
Office of the U.S. Trustee  
441 G St. NW,  
Washington, DC 20226  
Phone: (202) 307-1391

Washington, DC 20226

Dated: 8th<sup>th</sup> Day of November 2021

  
\_\_\_\_\_  
Mac Truong, Petitioner Pro Se  
875 Bergen Avenue,  
Jersey City, NJ 07306  
(914) 215-2304  
Email