

21-7938 ORIGINAL

SUPREME COURT OF THE UNITED STATES

FILED

MAY 06 2022

OFFICE OF THE CLERK
SUPREME COURT, U.S.

Larry Wayne Kimes

Petitioner,

vs.

United States Of America,

Respondent.

On Petition for a Writ Of Certiorari to
the United States Court of Appeals
for the Fifth Circuit

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

Larry Wayne Kimes, Petitioner *pro se*
2225 Normandy Dr.
Irving, Texas 75060

Pursuant to Rule 39.1 of the Rules of this Court, motion is hereby made that petitioner be allowed to proceed in forma pauperis. Petitioner's declaration in compliance with 28 U.S.C. § 1746 is included in this motion.

The petitioner, Larry Wayne Kimes, moves for leave to file the accompanying Petition for a Writ of Certiorari to the United States Court of Appeals for the Fifth

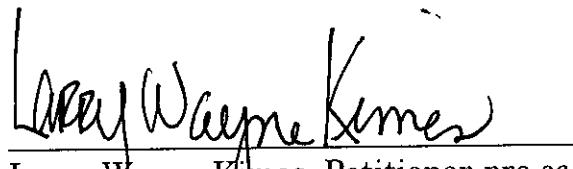
Circuit, without prepayment of fees or costs or giving security therefor, and to proceed *in forma pauperis* pursuant to Rule 39 of the Rules of this Court and 28 U.S.C. § 1915.

The petitioner's declaration in support of this motion is attached hereto.

Leave to proceed *in forma pauperis* was sought in the United States Court of Appeals for the Fifth Circuit and in the United States District Court, Western District of Texas, San Antonio Division. Leave was denied based upon the judgment that the motions were moot.

DATED: May 6, 2022.

Respectfully submitted,



Larry Wayne Kimes, Petitioner *pro se*
2225 Normandy Dr.
Irving, Texas 75060

CERTIFICATE OF SERVICE

By my signature above, I certify that on May 6, 2022, I sent a true and correct copy of the foregoing document in a properly addressed and postage-paid package to the following:

Elizabeth B. Prelogar
Solicitor General
Counsel of Record
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

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

I, Larry Wayne Kimes, declare that I am the petitioner in the above-entitled case, that in support of my Motion for Leave 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 that I believe I am entitled to redress.

I further declare that the responses which I have made to the questions and instructions below relating to my ability to pay the cost of proceeding in this Court are true.

1. Are you presently employed?

Yes

I have been approved for a job, but I will not begin work until sometime toward the end of May 2022. Once I begin work, I will be paid \$1,000.00 per week. My first check should be received on or about June 1, 2022.

My employer's name is Co-Counselors, LLC. Its address is:

P. O. Box 8548
Horseshoe Bay, Texas 78657

2. Have you received within the past twelve months any income from a business, profession, or other form of self-employment, or in the form of rent payments, interest, dividends, or other sources.

a. If the answer is yes, describe each source of income and state the amount received from each during the past twelve months.

Social Security benefits -- \$1,505.00 per month

VA Disability benefits -- \$154.00 per month

Odd jobs -- approximately \$2,500.00 per annum

3. Do you own any cash or checking or savings account?

a. If the answer is yes, state the total value of the items owned.

Yes

As of May 6, 2022, my checking account has less than \$100.00.

My savings account has \$10.00.

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)?

Yes

a. If the answer is yes, describe the property and state its approximate value.

One-half Interest in Personal Residence -- \$140,000.00

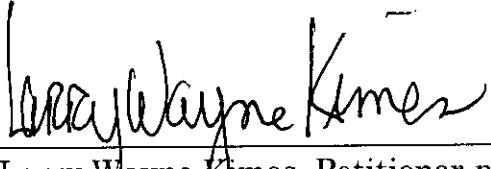
2013 Lexus 350RX -- \$10,000.00

5. List the persons who are dependent upon you for support and state your relationship to those persons.

None

I declare under penalty of perjury that the foregoing is true and correct, and I understand that a false statement or answer to any question in this declaration will subject me to penalties for perjury.

Executed this 6th day of May 2022.



Larry Wayne Kimes, Petitioner *pro se*

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

I, LARRY WAYNE KIMES, 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	\$ -0-	\$ N/A	\$?	\$ N/A
Self-employment	\$ -0-	\$	\$	\$
Income from real property (such as rental income)	\$ -0-	\$	\$ -0-	\$
Interest and dividends	\$ -0-	\$	\$ -0-	\$
Gifts *	\$ 500.00	\$	\$ 500.00	\$
Alimony	\$ -0-	\$	\$ -0-	\$
Child Support	\$ -0-	\$	\$ -0-	\$
Retirement (such as social security, pensions, annuities, insurance)	\$ 1,505.00	\$	\$ 1,505.00	\$
Disability (such as social security, insurance payments)	\$ 152.64	\$	\$ 152.64	\$
Unemployment payments	\$ -0-	\$	\$ -0-	\$
Public-assistance (such as welfare)	\$ -0-	\$	\$ -0-	\$
Other (specify): <u>LOANS *</u>	\$ 600.00	\$	\$ 600.00	\$
Total monthly income:	\$ 2,757.64		\$ 2,757.64	

* from FRIENDS AND FAMILY

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 *			\$ _____
			\$ _____
			\$ _____

* I HOPE TO BEGIN WORK IN JUNE 2022. SEE ATTACHMENT.

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			\$ _____
UNMARRIED			\$ _____
			\$ _____

4. How much cash do you and your spouse have? \$ 169.50
 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
CHECKING	\$ 160.50	\$ N/A
SAVINGS	\$ 5.00	\$ ✓

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

Home Value \$240,000.00 / \$ 105,000.00
 (I own ONE-HALF INTEREST) Other real estate Value N/A

Motor Vehicle #1 Year, make & model 2013 LEXUS RX 350 Motor Vehicle #2
 Value \$10,000.00 Year, make & model N/A
 Value _____

Other assets Description WATCHES AND CLASS RING (\$2,000.00)
 Value \$2,600.00

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>N/A</u>	\$ <u>N/A</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>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>300.00</u>	\$ <u>N/A</u>
Are real estate taxes included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Is property insurance included? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ <u>463.00</u>	\$ _____
Home maintenance (repairs and upkeep)	\$ <u>300.00</u>	\$ _____
Food	\$ <u>400.00</u>	\$ _____
Clothing	\$ <u>100.00</u>	\$ _____
Laundry and dry-cleaning	\$ <u>20.00</u>	\$ _____
Medical and dental expenses	\$ <u>50.00</u>	\$ <u>↓</u>

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ 100.00	\$ N/A
Recreation, entertainment, newspapers, magazines, etc.	\$ 120.00	\$
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ 161.00	\$
Life	\$ -0-	\$
Health (Provided by the Veterans Administration)	\$ -0-	\$
Motor Vehicle	\$ 226.00	\$
Other: _____	\$ -0-	\$
Taxes (not deducted from wages or included in mortgage payments)		
(specify): _____	\$ -0-	\$
Installment payments		
Motor Vehicle	\$ -0-	\$
Credit card(s)	\$ 545.00	\$
Department store(s)	\$ -0-	\$
Other: _____	\$ -0-	\$
Alimony, maintenance, and support paid to others	\$ -0-	\$
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ -0-	\$
Other (specify): _____	\$ -0-	\$
Total monthly expenses:	\$ 1,785.00	\$

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 this case.

I CAN PAY IN JUNE OR JULY, ASSUMING
I CAN BEGIN WORK BY THEN.

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

Executed on: May 16, 2022

Larry W. Kimes
(Signature)
Larry W. Kimes

Declaration in Support of Motion for Leave to Proceed *In Forma Pauperis*
Kimes v. United States
USCA5 No. 20-50251
Case No. 21A379
May 16, 2022

Section 9:

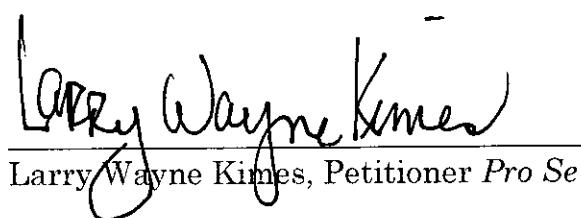
The halfway house, Volunteers of America in Hutchins, Texas, approved Kimes employment effective April 8, 2022. Kimes will be working for:

Co-Counselors, LLC
P. O. Box 8548
Horseshoe Bay, Texas 78657

Co-Counselors, LLC is a start-up. It is a legal process outsourcing company. Kimes will not begin working and getting paid until Co-Counselors, LLC has completed its website and begins marketing, which is expected sometime in the next few weeks.

Kimes expects to make \$1,000.00 per week, which is why Kimes stated in Section 12 that he could probably pay in June or July of this year, if necessary.

Pursuant to 28 U.S.C. §1746, under penalty of perjury, I, Larry Wayne Kimes, hereby affirm that the facts contained in the Declaration in Support of Motion for Leave to Proceed *In Forma Pauperis* and the facts contained herein are true and correct.



Larry Wayne Kimes, Petitioner Pro Se