

No. 21-8008

Supreme Court, U.S.  
FILED

MAY 23 2022

OFFICE OF THE CLERK

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IN THE  
SUPREME COURT OF THE UNITED STATES

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In Re James-Martin: Graham, - PETITIONER

VS.

WARDEN, F.C.I. COLEMAN - LOW,  
JUDGE, LISA GODBY WOOD,  
AUSA, MARCELA C. MATEO,  
AUSA, GREGORY E. GILLULY Jr,  
JUDGE BENJAMIN W. CHEESBRO. - RESPONDENT(S)

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MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

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COMES NOW, Petitioner, James-Martin: Graham, sui juris, proceeding pro sa, a Federal Florida State prisoner, currently incarcerated at the F.C.I. Coleman - LOW Complex, in Coleman, Florida, appearing by Special Visitation, and not generally.

PLEASE TAKE NOTICE, that upon the Affidavit In Support, submitted by James-Martin: Graham, declared upon the date of signing, a motion will be made at the term of this Court, for an order permitting Appellant to pursue this action In Forma Pauperis, pursuant to 28 U.S.C. 1915, upon the ground that the Appellant/Petitioner has insufficient income and/or property to enable him to afford to pay the costs, fees, and expenses to pursue this action in regard to the denial of his Petition for a Writ of Habeas Corpus that was filed pursuant

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to 28 U.S.C. § 2241.

Petitioner Graham seeks a waiver of all fees and costs associated with this appeal, and believes he is entitled to one because the filing fee does not apply to these types of habeas corpus petitions under Title 28 U.S.C. § 2241 because it is not a "civil action" subject to the filing fee requirements under the Prison Reform Litigation Act ("P.L.R.A."). Even though the fees do not apply, the Court's procedures still require that appellant apply for in forma pauperis status. See **Enclosed Affidavit In Support** made part hereof.

The landmark case in which all others seem to be based is out of the Third Circuit which states:

"[W]hen the PLRA is read as a whole, it is apparent that Congress did not intend for the statute, Title 28 U.S.C. § 1915, to apply to habeas corpus proceedings. For the foregoing reasons, we shall conclude that the filing fee requirements of the PLRA set forth in 28 U.S.C. § 1915(b) do not apply to habeas corpus petitions or to appeals from the denial of such petitions. See **Santana v. United States**, 98 F.3d. 752, 756 (3rd Cir. 1996).

Likewise, numerous other circuits have held the same. See **Skinner v. Wiley**, 355 F.3d. 1293 (11th Cir. 2004) stating:

"We, like several other circuits, have held that the PLRA does not apply to habeas corpus petitions because (1) habeas petitions are not traditional civil actions; (2) Congress designed the PLRA to reduce frivolous civil actions from prisoners; and (3) the Antiterrorism and Effective Death Penalty Act (AEDPA), which affects habeas petitions and motions to vacate, was enacted two days after the PLRA. See **Anderson v. Singletary**, 111 F.3d. 801, 803-05 (11th Cir. 1997)(holding that the PLRA's filing fee provisions do not apply in §§ 2254 and 2255 petitions); See also **Carmona v. U.S. Bureau of Prisons**, 243 F.3d. 629, 634 (2nd Cir. 2001)(stating that the PLRA does not apply to § 2241 petitions); **walker v. O'Brien**, 216 F.3d. 626, 633-34, 636-37 (7th Cir. 2000) (holding that the PLRA does not apply to § 2241 and § 2254 petitions); **Blair-Bey v. Quick**, 331 U.S. App. D.C. 362, 151 F.3d. 1036, 1040-42 (D.C. Cir. 1998)(holding that the PLRA filing fee provisions do not apply to habeas corpus petitions); **Davis v. Fechtel**, 150 F.3d. 486, 490 (5th Cir. 1999)(holding that the PLRA does not apply to § 2241 petitions).

As petitioner can see from the Court Rules, Petitioner is required to submit certain documentation even though the PLRA provision under Title 28 U.S.C. § 1915, nor the filing fee to an appeal of a § 2241 Habeas Corpus Petition do not apply.

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**RELIEF SOUGHT**

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For the above foregoing reasons Mr. Graham Prays that this Honorable Court GRANT his Motion for Leave to Proceed In Forma Pauperis, and allow him to proceed by waiving all fees and costs, and for such other relief as this Court may deem just and proper,

Executed this 5<sup>th</sup> day of MAY, 2022.

Respectfully submitted,

By: 

James-Martin: Graham, Pro Se  
Reg No. 21927-021  
By Special Visitation, not general  
F.C.I. Coleman - LOW  
P.O. Box 1031 Unit C-1  
Coleman, Florida 33521-1031

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

I, James-Martin Graham, 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>0</u>	\$ _____
Self-employment	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Income from real property (such as rental income)	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Interest and dividends	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Gifts From family	\$ <u>20</u>	\$ _____	\$ <u>0</u>	\$ _____
Alimony	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Child Support	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Disability (such as social security, insurance payments)	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Unemployment payments	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Public-assistance (such as welfare)	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Other (specify): _____	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
<b>Total monthly income:</b>	\$ <u>20</u>	\$ _____	\$ <u>0</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
Unemployed			\$
			\$
			\$

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			\$
			\$
			\$

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	\$	\$
	\$	\$
	\$	\$

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

☐ Home  
Value NONE

☐ Other real estate  
Value \_\_\_\_\_

☐ Motor Vehicle #1  
Year, make & model NONE  
Value \_\_\_\_\_

☐ Motor Vehicle #2  
Year, make & model \_\_\_\_\_  
Value \_\_\_\_\_

☐ Other assets  
Description NONE  
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>	\$ _____	\$ _____
_____	\$ _____	\$ _____

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>	_____	_____
_____	_____	_____

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)

\$ NONE \$ \_\_\_\_\_

Are real estate taxes included? ☐ Yes ☐ No

Is property insurance included? ☐ Yes ☐ No

Utilities (electricity, heating fuel,  
water, sewer, and telephone)

\$ NONE \$ \_\_\_\_\_

Home maintenance (repairs and upkeep)

\$ NONE \$ \_\_\_\_\_

Food

\$ NONE \$ \_\_\_\_\_

Clothing

\$ NONE \$ \_\_\_\_\_

Laundry and dry-cleaning

\$ NONE \$ \_\_\_\_\_

Medical and dental expenses

\$ NONE \$ \_\_\_\_\_

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ <u>NONE</u>	\$ _____
Recreation, entertainment, newspapers, magazines, etc.	\$ <u>NONE</u>	\$ _____
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ <u>NONE</u>	\$ _____
Life	\$ <u>NONE</u>	\$ _____
Health	\$ <u>NONE</u>	\$ _____
Motor Vehicle	\$ <u>NONE</u>	\$ _____
Other: _____	\$ <u>—</u>	\$ _____
Taxes (not deducted from wages or included in mortgage payments)		
(specify): _____	\$ <u>NONE</u>	\$ _____
Installment payments		
Motor Vehicle	\$ <u>NONE</u>	\$ _____
Credit card(s)	\$ <u>NONE</u>	\$ _____
Department store(s)	\$ <u>NONE</u>	\$ _____
Other: _____	\$ <u>—</u>	\$ _____
Alimony, maintenance, and support paid to others	\$ <u>NONE</u>	\$ _____
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ <u>NONE</u>	\$ _____
Other (specify): _____	\$ _____	\$ _____
<b>Total monthly expenses:</b>	\$ <u>0</u>	\$ _____

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? \_\_\_\_\_

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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.

Incarcerated

ACCOUNTING STATEMENT ATTACHED

I declare under penalty of perjury that the foregoing is true and correct. 28 USC 1746(c)

Executed on: May 5, 2022

  
(Signature)