

No. 21-8008

Supreme Court, U.S.

FILED

MAY 23 2022

OFFICE OF THE CLERK

IN THE  
SUPREME COURT OF THE UNITED STATES

In Re James-Martin: Graham, - PETITIONER

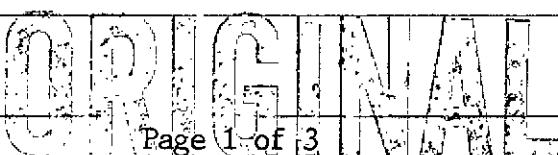
VS.

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)

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

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



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. 1989) (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.

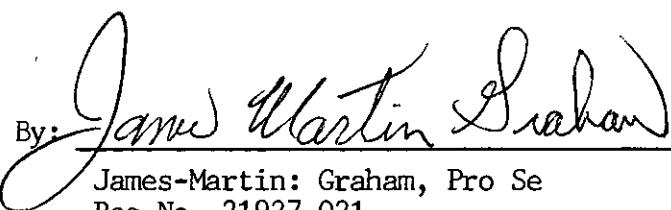
**RELIEF SOUGHT**

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

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 |
|-------------------|---------|---------------------|-------------------|
| <u>Unemployed</u> |         |                     | \$                |
|                   |         |                     | \$                |
|                   |         |                     | \$                |

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 |
|------------|---------|---------------------|-------------------|
| <u>N/A</u> |         |                     | \$                |
|            |         |                     | \$                |
|            |         |                     | \$                |

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 |
|---|-----------------|------------------------|
| <u>none</u>                                 | \$              | \$                     |
|   | \$              | \$                     |
|   | \$              | \$                     |

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

Motor Vehicle #2

Year, make & model \_\_\_\_\_

Value \_\_\_\_\_

Value \_\_\_\_\_

Other assets

Description none

Value \_\_\_\_\_

6. 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> |
|--|---------------------------|-----------------------------------|
| <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").

| <b>Name</b> | <b>Relationship</b> | <b>Age</b> |
|-------------|---------------------|------------|
| <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.

|  | <b>You</b>       | <b>Your spouse</b> |
|--|------------------|--------------------|
| Rent or home-mortgage payment<br>(include lot rented for mobile home)                    | \$ <u>NONE Ø</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,<br>water, sewer, and telephone)                    | \$ <u>NONE Ø</u> | \$ _____           |
| Home maintenance (repairs and upkeep)  | \$ <u>NONE Ø</u> | \$ _____           |
| Food   | \$ <u>NONE Ø</u> | \$ _____           |
| Clothing   | \$ <u>NONE Ø</u> | \$ _____           |
| Laundry and dry-cleaning   | \$ <u>NONE Ø</u> | \$ _____           |
| Medical and dental expenses  | \$ <u>NONE Ø</u> | \$ _____           |

|   | <b>You</b>       | <b>Your spouse</b> |
|---|------------------|--------------------|
| 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): _____  | <u>\$ _____</u>  | \$ _____           |
| <b>Total monthly expenses:</b>  | <u>\$ _____</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? \_\_\_\_\_

PRO Se

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(d)

Executed on: May 5, 2022

  
(Signature)