

NUMBER _____

In The

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2021

IN THE MATTER OF THE ADOPTION OF A.D., A MINOR

JOSHUA DICKS, *Petitioner*

v.

NATASHA DAVIS, *Respondent*

MOTION TO PROCEED IN FORMA PAUPERIS

1. This application to proceed in forma pauperis is brought by the above Petitioner, Joshua Dicks, through counsel, under 28 U.S.C. § 1915(a) and Supreme Court Rule 39.
2. This action involves termination of Mr. Dicks' parental rights in a private adoption proceeding.
3. Leave to proceed in forma pauperis has not been sought in any directly related prior proceeding. Mr. Dicks represented himself pro se at trial. Mr. Dicks was permitted to proceed *in forma pauperis* in a separate visitation proceeding that was pending contemporaneously with the current proceeding and which involved the same parties. See Affidavit and attached Order, Petitioner's Appendix at 20 and 26.

4. Although Mr. Dicks' attached affidavit here indicates financial resources, review of his earlier filings in this proceeding shows that his income has only increased over the past two years, and at the time of the trial was significantly lower (\$1451.00 per month). Further, a review of Mr. Dicks' affidavit shows his responsibility for three children (including two teenagers), no real capital assets, very high commuting costs, and reasonable fixed expenses that leave as little as \$300.00 per month for any other emergency, necessity, repair, or school need for the children.

5. In addition to filing fees, average printing cost for petitions for certiorari under Rule 33.1 can run as much as \$2000.00 to \$4000.00 dollars – a sum that Mr. Dicks' affidavit shows little ability to raise.

6. Additional consideration should be given here to Mr. Dicks' application because:

a. This case involves termination of parental rights – rights recognized repeatedly as implicating fundamental due process interests. *Santosky v. Kramer*, 455 U. S. 745, 753 ("Parental status termination is "irretrievabl[y] destructi[ve]" of the most fundamental family relationship. "); *M.L. B. v. S. L. J.*, 519 U.S. 102 (1996)(" State cannot adopt procedures which leave an indigent defendant 'entirely cut off from any appeal at all,' by virtue of his

indigency, or extend to such indigent defendants merely a 'meaningless ritual' while others in better economic circumstances have a 'meaningful appeal.'").

b. The lower court proceeding in which Mr. Dick's rights were terminated was not initiated by Mr. Dicks.

c. Mr. Dicks has not been able to retain counsel in this matter, and current counsel is, and has been, representing Mr. Dicks on a *pro bono* basis.

WHEREFORE, Petitioner requests that the Court permit him to proceed in forma pauperis in this matter.

Dated this 27th day of May, 2022



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ATTORNEY FOR PETITIONER JOSHUA DICKS

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

I, Joshua Dicks, 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>2258</u>	\$ <u>1357</u>	\$ <u>2258</u>	\$ <u>1357</u>
Self-employment	\$ _____	\$ _____	\$ _____	\$ _____
Income from real property (such as rental income)	\$ _____	\$ _____	\$ _____	\$ _____
Interest and dividends	\$ _____	\$ _____	\$ _____	\$ _____
Gifts	\$ _____	\$ _____	\$ _____	\$ _____
Alimony	\$ _____	\$ _____	\$ _____	\$ _____
Child Support	\$ _____	\$ _____	\$ _____	\$ _____
Retirement (such as social security, pensions, annuities, insurance)	\$ _____	\$ _____	\$ _____	\$ _____
Disability (such as social security, insurance payments)	\$ _____	\$ _____	\$ _____	\$ _____
Unemployment payments	\$ _____	\$ _____	\$ _____	\$ _____
Public-assistance (such as welfare)	\$ _____	\$ _____	\$ _____	\$ _____
Other (specify): _____	\$ _____	\$ _____	\$ _____	\$ _____
Total monthly income:	\$ <u>2258</u>	\$ <u>1357</u>	\$ <u>2258</u>	\$ <u>1357</u>

REDACTED VERSION

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
EZ Loader	Midway, AR	3/2020 - current	\$ 2258
			\$
			\$

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
EZ Loader	Midway, AR	8/2021 - current	\$ 1357
Living The Dream	Bull Shoals, AR	2/2020 - 8/2021	\$ 600
			\$

4. How much cash do you and your spouse have? \$ 20.00
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	\$ 0.22	\$
	\$	\$
	\$	\$

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

☐ Home Value _____ ☐ Other real estate Value _____

☒ Motor Vehicle #1 Year, make & model 2003 Pontiac Bonneville Value \$500
☐ Motor Vehicle #2 Year, make & model _____ Value _____

☐ Other assets Description _____ 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
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____

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>C.D.</u>	<u>Son (Guardianship)</u>	<u>7</u>
<u>K.S.</u>	<u>Son</u>	<u>15</u>
<u>C. JS</u>	<u>Daughter</u>	<u>18</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>595</u>	\$ _____
Are real estate taxes included? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Is property insurance included? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ <u>434</u>	\$ _____
Home maintenance (repairs and upkeep)	\$ <u>100</u>	\$ _____
Food	\$ <u>600</u>	\$ _____
Clothing	\$ <u>150</u>	\$ _____
Laundry and dry-cleaning	\$ <u>0</u>	\$ _____
Medical and dental expenses	\$ <u>176</u>	\$ _____

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ <u>576</u>	\$ _____
Recreation, entertainment, newspapers, magazines, etc.	\$ _____	\$ _____
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ _____	\$ _____
Life	\$ _____	\$ _____
Health	\$ <u>231</u>	\$ _____
Motor Vehicle	\$ <u>274</u>	\$ _____
Other: _____	\$ _____	\$ _____
Taxes (not deducted from wages or included in mortgage payments)		
(specify): _____	\$ _____	\$ _____
Installment payments		
Motor Vehicle	\$ _____	\$ _____
Credit card(s)	\$ _____	\$ <u>150</u>
Department store(s)	\$ _____	\$ _____
Other: _____	\$ _____	\$ _____
Alimony, maintenance, and support paid to others	\$ _____	\$ _____
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ _____	\$ _____
Other (specify): <u>Legal Fines + Probation Fees</u>	\$ <u>195</u>	\$ <u>145</u>
	\$ <u>3331</u>	
Total monthly expenses:	\$ <u>3331</u>	\$ <u>3450</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? _____

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

Executed on: March 13, 2022

[Signature]
(Signature)

REDACTED VERSION