

22-5060

No. _____

ORIGINAL

Supreme Court, U.S.
FILED

APR 15 2022

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

FRED AUSTON MONTGOMERY III — PETITIONER
(Your Name)

VS.

STATE OF TENNESSEE, et al. RESPONDENT(S)

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):

☒ 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.


(Signature)

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

I, FRED ASTON KOESTER, JR., 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-	\$ 12/1	\$ -0-	\$ 12/1
Self-employment	\$ -0-	\$	\$ -0-	\$
Income from real property (such as rental income)	\$ -0-	\$	\$ -0-	\$
Interest and dividends	\$ -0-	\$	\$ -0-	\$
Gifts	\$ -0-	\$	\$ -0-	\$
Alimony	\$ -0-	\$	\$ -0-	\$
Child Support	\$ -0-	\$	\$ -0-	\$
Retirement (such as social security, pensions, annuities, insurance)	\$ -0-	\$	\$ -0-	\$
Disability (such as social security, insurance payments)	\$ -0-	\$	\$ -0-	\$
Unemployment payments	\$ -0-	\$	\$ -0-	\$
Public-assistance (such as welfare)	\$ -0-	\$	\$ -0-	\$
Other (specify): _____	\$	\$	\$ 0	\$
Total monthly income:	\$ -0-	\$	\$ -0-	\$

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>Terminated</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? \$ None
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>N/A</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 N/A

☐ Other real estate
Value N/A

☐ Motor Vehicle #1
Year, make & model N/A
Value _____

☐ Motor Vehicle #2
Year, make & model N/A
Value _____

☐ Other assets
Description N/A
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

NONE

\$ NONE

\$ N/A

\$ _____

\$ _____

\$ _____

\$ _____

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

N/A

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)

\$ -0-

\$ N/A

Are real estate taxes included? ☐ Yes ☐ No

Is property insurance included? ☐ Yes ☐ No

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

\$ -0-

\$ _____

Home maintenance (repairs and upkeep)

\$ -0-

\$ _____

Food

\$ -0-

\$ _____

Clothing

\$ -0-

\$ _____

Laundry and dry-cleaning

\$ -0-

\$ _____

Medical and dental expenses

\$ -0-

\$ _____

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

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:

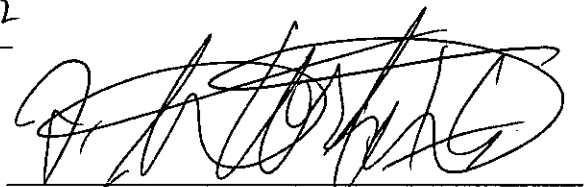
N/A

12. Provide any other information that will help explain why you cannot pay the costs of this case.

I AM INCARCERATED

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

Executed on: June 17th, 2022



(Signature)

IN THE SUPREME COURT OF THE UNITED STATES

FRED AUSTON WORTMAN, III,

Petitioner,

v.

STATE OF TENNESSEE, ET. AL.,

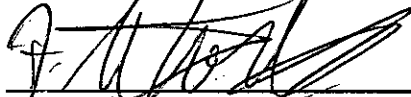
Respondents.

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

COMES NOW Petitioner, Fred Auston Wortman, III, and moves this Court for leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

Petitioner's affidavit and declaration in support of this motion is also attached hereto.

Respectfully submitted,



FRED AUSTON WORTMAN, III

Mailing address:

P. O. Box 2000

Wartburg, TN 37887

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing petition for writ of certiorari has been forwarded by first-class mail, postage prepaid, to Tennessee Attorney General, P.O. Box 20207, Nashville, TN 37202, on this the 14 day of April, 2022.



FRED AUSTON WORTMAN, III

IN THE SUPREME COURT OF THE UNITED STATES

FRED AUSTON WORTMAN, III,

Petitioner,

v.

STATE OF TENNESSEE, ET. AL.,

Respondents.

**DECLARATION IN SUPPORT OF REQUEST TO PROCEED
IN FORMA PAUPERIS 28 U.S.C. § 1746 — PRISONER CASES**

I, Fred Auston Wortman, III, (hereinafter referred to as "Affiant"), do state and declare on oath:

1. I am the Petitioner in the above styled matter.
2. In support of my motion to proceed without being required to prepay fees or costs, which is attached hereto, I state that because of my poverty, I am unable to pay the costs of this proceeding.
3. I believe I am entitled to the relief requested.
4. I am confined at that Morgan County Correctional Complex, 541 Cotton Morgan Road, P. O. Box 2000, Wartburg, Tennessee 37887.

5. I was convicted of attempted first degree murder and solicitation of first degree murder on or about November 11, 2015 in the Shelby and Fayette Counties, Tennessee, Criminal Courts.

6. I am not presently employed and I have not been employed for over seven (7) years. I have been confined since June 5, 2015.

7. Have you received, within the past twelve (12) months, money from any of the following sources? Answer Yes or No

Business, profession or form of self-employment? NO

Rent Payments, interest or dividends? NO

Pensions, annuities or life insurance payments? NO

Gifts or inheritances? NO

Any other sources? NO

8. I do not own any cash, and do I not have money in any checking account or savings account. Also I do not have any funds in prison accounts during the last six (6) months.

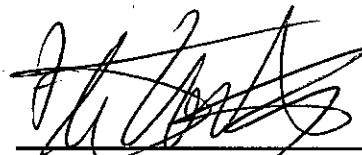
9. I do not own real estate, stocks, bonds, notes, automobiles, jewelry, or other valuable property.

7. List the persons who are dependent upon you for support, state your relationship to those persons, and indicate how much you contribute toward their support --- None

I, Fred Auston Wortman, III, inmate number 558354, have attached a certified copy of my Inmate Trust Fund Account for the past six (6) months.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on the 14th day of April, 2022.



FRED AUSTON WORTMAN, III
P. O. Box 2000
Wartburg, TN 37887

TRUST FUNDS DEPT



TENNESSEE DEPARTMENT OF CORRECTION INMATE INQUIRY - INFORMATION REQUEST

MCCB

INSTITUTION

FRED WORTMAN

INMATE NAME (Please Print)

558354

INMATE NUMBER

UNIT:

5

ROOM / BED:

21-13

DATE:

3-11-22

ROUTED TO:

☐

Unit Manager

☐

Inmate Relations Coordinator (IRC)

☐

Counselor

☐

Inmate Job Coordinator (IJC)

1. Inmate Inquiry/Request:

I request A Trust fund print out to provide to the court Thank you in advance

Sincerely,

[Signature]

2. Action by Counselor/IRC/Inmate Job Coordinator:

The last date you paid on STA Court Fee was 7-2020. There is nothing being taken at present time. See print-out attachment.

Wilma Branstetter
Counselor / IRC / Inmate Job Coordinator SIGNATURE

3-16-2022
DATE

3. Action by Record Office

Fill out Withdrawal

RECORD'S OFFICE STAFF SIGNATURE

DATE

4. Sentence Management Services (SMS) Response:

SMS STAFF SIGNATURE

DATE

eTomis

Menu Favorites Tools Other Applications Reports Help

PROD (LTFE)

Trust Fund

Links ▾

Suspend ☐

Account 00558354

Wortman, Fred

Status ACTV

Reset key fields

Refresh

Enter

FastPath

Go

Transactions

Obligations

Organizations

Actual Site MCCX

Assigned Site MCCX

Current Balance 187.96

Pending Balance

Trans Date	Seq No	Trans Type	Transaction Code	Transaction Amount	Trans Site	Current Amount	Pend Amount
03/14/2022	1	D	COM	70.04	MCCX	187.96	
03/11/2022	3	D	COP	1.05	MCCX	258.00	
03/11/2022	2	D	POS	2.56	MCCX	259.05	
03/11/2022	1	D	POS	1.13	MCCX	261.61	
03/10/2022	2	D	CBL	3.50	MCCX	262.74	
03/10/2022	1	C	PAD	66.00	MCCX	266.24	
03/07/2022	1	C	VIC	200.00	MCCX	200.24	
02/16/2022	1	D	COM	0.91	MCCX	0.24	
02/14/2022	3	D	POS	8.70	MCCX	1.15	
02/14/2022	2	D	POS	9.25	MCCX	9.85	

Search

Top Of List

I CERTIFY THIS IS AN ACCURATE
DESCRIPTION OF THE ABOVE
NAMED INMATE'S TRUST FUND
ACCOUNT FOR THE REQUESTED
TIME PERIOD

MCCX

Trust Fund
Wilma Braustetter
3-16-2022

eTomis

Menu Favorites Tools Other Applications Reports Help PROD (LTFE)

Trust Fund

Links ▾

Suspend ☐

Account 00558354

Wortman, Fred

Status ACTV

Reset key fields

Refresh

Enter

First

FastPath

Go

Transactions

Obligations

Organizations

Actual Site MCCX

Assigned Site MCCX

Current Balance 187.96

Pending Balance

Trans Date	Seq No	Trans Type	Transaction Code	Transaction Amount	Trans Site	Current Amount	Pend Amount
02/14/2022	1	D	POS	9.25	MCCX	19.10	
02/10/2022	2	D	COM	79.31	MCCX	28.35	
02/10/2022	1	C	PAD	69.00	MCCX	107.66	
02/08/2022	2	D	POS	0.55	MCCX	38.66	
02/08/2022	1	D	POS	0.29	MCCX	39.21	
02/04/2022	2	D	POS	9.25	MCCX	39.50	
02/04/2022	1	D	POS	10.55	MCCX	48.75	
02/03/2022	1	D	COM	75.99	MCCX	59.30	
02/02/2022	1	D	CBL	3.50	MCCX	135.29	
01/26/2022	1	D	COM	57.71	MCCX	138.79	

Search

I CERTIFY THIS IS AN ACCURATE
DESCRIPTION OF THE ABOVE
NAMED INMATE'S TRUST FUND
ACCOUNT FOR THE REQUESTED
TIME PERIOD

MCCX
Trust Fund
William Branstetter
3-16-2022

eTomis

Menu Favorites Tools Other Applications Reports Help

PROD (LTFE)

Trust Fund



Links

Suspend ☐

Account 00558354

Wortman, Fred

Status ACTV

Reset key fields

Transactions

Obligations

Organizations

Refresh

Actual Site MCCX

Assigned Site MCCX

Current Balance 187.96

Pending Balance

Enter

First

FastPath

Go

Trans Date	Seq No	Trans Type	Transaction Code	Transaction Amount	Trans Site	Current Amount	Pend Amount
01/24/2022	1	D	CBL	3.50	MCCX	196.50	
01/21/2022	1	C	VIC	200.00	MCCX	200.00	
01/19/2022	1	D	POS	0.26	MCCX		
01/13/2022	4	D	COM	51.47	MCCX	0.26	
01/13/2022	3	D	POS	6.31	MCCX	51.73	
01/13/2022	2	D	POS	1.96	MCCX	58.04	
01/13/2022	1	C	PAD	60.00	MCCX	60.00	
01/04/2022	2	D	POS	13.75	MCCX		
01/04/2022	1	D	COM	50.73	MCCX	13.75	
12/27/2021	6	D	POS	0.75	MCCX	64.48	

Search

CERTIFY THIS IS AN ACCURATE
DESCRIPTION OF THE ABOVE
NAMED INMATE'S TRUST FUND
ACCOUNT FOR THE REQUESTED
TIME PERIOD

MCCX
Trust Fund
Wesley Branstetter
3-16-2022

eTomis

Menu Favorites Tools Other Applications Reports Help PROD (LIFE)

Trust Fund

Links ▾

Suspend ☐

Account 00558354

Wortman, Fred

Status ACTV

Reset key fields

Refresh

Enter

First

FastPath

Go

Transactions

Obligations

Organizations

Actual Site MCCX

Assigned Site MCCX

Current Balance 187.96

Pending Balance

Trans Date	Seq No	Trans Type	Transaction Code	Transaction Amount	Trans Site	Current Amount	Pend Amount
12/27/2021	5	D	POS	1.76	MCCX	65.23	
12/27/2021	4	D	POS	1.96	MCCX	66.99	
12/27/2021	3	D	POS	2.16	MCCX	68.95	
12/27/2021	2	D	POS	1.96	MCCX	71.11	
12/27/2021	1	D	POS	2.36	MCCX	73.07	
12/21/2021	1	D	COM	60.10	MCCX	75.43	
12/17/2021	3	D	POS	0.73	MCCX	135.53	
12/17/2021	2	D	POS	1.76	MCCX	136.26	
12/17/2021	1	D	NOT	1.00	MCCX	138.02	
12/16/2021	2	D	POS	9.30	MCCX	139.02	

Search

I CERTIFY THIS IS AN ACCURATE
DESCRIPTION OF THE ABOVE
NAMED INMATE'S TRUST FUND
ACCOUNT FOR THE REQUESTED
TIME PERIOD

mccx
Trust Fund
Weline Branchette
3-16-2022

eTomis

Menu Favorites Tools Other Applications Reports Help

PROD (LIFE)

Trust Fund

Links

Suspend ☐

Account 00558354

Wortman, Fred

Status ACTV

Reset key fields

Refresh

Enter

First

FastPath

Go

Transactions

Obligations

Organizations

Actual Site MCCX

Assigned Site MCCX

Current Balance 187.96

Pending Balance

Trans Date	Seq No	Trans Type	Transaction Code	Transaction Amount	Trans Site	Current Amount	Pend Amount
12/16/2021	1	D	POS	8.80	MCCX	148.32	
12/15/2021	3	D	COM	49.63	MCCX	157.12	
12/15/2021	2	D	POS	0.93	MCCX	206.75	
12/15/2021	1	D	POS	1.96	MCCX	207.68	
12/14/2021	2	D	POS	1.76	MCCX	209.64	
12/14/2021	1	D	POS	0.73	MCCX	211.40	
12/09/2021	2	D	COM	57.92	MCCX	212.13	
12/09/2021	1	C	PAD	69.00	MCCX	270.05	
12/07/2021	1	C	VIC	200.00	MCCX	201.05	
12/02/2021	1	D	COM	26.80	MCCX	1.05	

Search

I CERTIFY THIS IS AN ACCURATE
DESCRIPTION OF THE ABOVE
NAMED INMATE'S TRUST FUND
COUNT FOR THE REQUESTED
TIME PERIOD

MCCX
Trust Fund
Walter Branstetter
3-16-2022

eTomis

Menu Favorites Tools Other Applications Reports Help

PROD (LTFE)

Trust Fund

Links

Suspend ☐

Account 00558354

Wortman, Fred

Status ACTV

Reset key fields

Refresh

Enter

First

FastPath

Go

Transactions

Obligations

Organizations

Actual Site MCCX

Assigned Site MCCX

Current Balance 187.96

Pending Balance

Trans Date	Seq No	Trans Type	Transaction Code	Transaction Amount	Trans Site	Current Amount	Pend Amount
11/30/2021	1	D	NOT	1.00	MCCX	27.85	
11/22/2021	1	D	COM	64.15	MCCX	28.85	
11/17/2021	1	D	COM	55.41	MCCX	93.00	
11/10/2021	2	D	COM	61.80	MCCX	148.41	
11/10/2021	1	C	PAD	66.00	MCCX	210.21	
11/04/2021	1	D	COM	53.10	MCCX	144.21	
11/02/2021	1	D	CBL	3.00	MCCX	197.31	
11/01/2021	1	C	VIC	200.00	MCCX	200.31	
10/25/2021	1	D	COM	46.84	MCCX	0.31	
10/14/2021	2	D	COM	70.43	MCCX	47.15	

Search

I CERTIFY THIS IS AN ACCURATE
DESCRIPTION OF THE ABOVE
NAMED INMATE'S TRUST FUND
ACCOUNT FOR THE REQUESTED
TIME PERIOD

MCCX
Trust Fund
Wendy Brantley
3-16-2022

eTomis

Menu Favorites Tools Other Applications Reports Help

Trust Fund



Links ▾

Suspend ☐

Account 00558354

Wortman, Fred

Status ACTV

Reset key fields

Refresh

Enter

First

FastPath

Go

Transactions

Obligations

Organizations

Actual Site MCCX

Assigned Site MCCX

Current Balance 187.96

Pending Balance

Trans Date	Seq No	Trans Type	Transaction Code	Transaction Amount	Trans Site	Current Amount	Pend Amount
10/14/2021	1	C	PAD	63.00	MCCX	117.58	
10/12/2021	1	D	POS	0.53	MCCX	54.58	
10/07/2021	1	D	COM	69.61	MCCX	55.11	
10/05/2021	1	D	CBL	3.00	MCCX	124.72	
10/01/2021	1	D	COM	72.68	MCCX	127.72	
09/24/2021	2	D	COM	30.20	MCCX	290.40	
09/24/2021	1	C	VIC	200.00	MCCX	230.60	
09/20/2021	1	D	COM	27.00	MCCX	30.60	
09/17/2021	2	D	POS	8.55	MCCX	57.60	
09/17/2021	1	D	POS	2.96	MCCX	66.15	

Search

VERIFY THIS IS AN ACCURATE
DESCRIPTION OF THE ABOVE
INMATE'S TRUST FUND
AMOUNT FOR THE REQUESTED
TIME PERIOD

MCCX
Trust Fund
Wilma Branstetter
3-16-2022