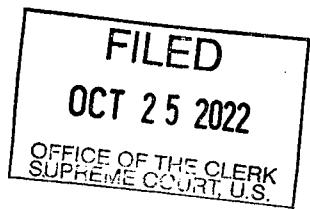


22-5970

ORIGINAL

IN THE  
SUPREME COURT OF THE UNITED STATES



David Antoine Luster — PETITIONER  
(Your Name)

VS.

WARDEN R.M. WOLFE — 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):

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT.

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.

/s/ David A. Luster

(Signature)

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OFFICE OF THE CLERK  
SUPREME COURT, U.S.

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

I, David Antoine Luster, 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.

<b>Income source</b>	<b>Average monthly amount during the past 12 months</b>		<b>Amount expected next month</b>	
	<b>You</b>	<b>Spouse</b>	<b>You</b>	<b>Spouse</b>
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	\$ <u>-0-</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>	<b>\$ <u>-0-</u></b>	<b>\$ _____</b>	<b>\$ <u>-0-</u></b>	<b>\$ _____</b>

2. List your employment history for the past two years, most recent first. (Gross monthly pay is before taxes or other deductions.)

<b>Employer</b> <hr/> <hr/>	<b>Address</b> <hr/> <hr/> <b>N/A</b>	<b>Dates of Employment</b> <hr/> <hr/> <hr/> <hr/>	<b>Gross monthly pay</b> \$ \$ \$
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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.)

<b>Employer</b> <hr/> <hr/>	<b>Address</b> <hr/> <hr/> <b>NA</b>	<b>Dates of Employment</b> <hr/> <hr/> <hr/>	<b>Gross monthly pay</b> <hr/> <hr/> <hr/>
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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>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

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

Motor Vehicle #1  
Year, make & model \_\_\_\_\_  
Value \_\_\_\_\_

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**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\$ \_\_\_\_\_  
**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  
**N/A**

Age  
\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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 (include lot rented for mobile home)	\$ -0-	\$ _____
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, 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-	\$ _____

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

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? N/A

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? N/A

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.

In 2004 I was sentenced to pay \$612,000.00 in restitution. In 2017 The Supreme Court found 18 U.S.C. section 16(b) unconstitutionally vague in the context of incorporated by reference in Sessions v. Dimaya. 18 U.S.C. section 3663A incorporate by reference section 16(a) and (b) also. This disparity in sentence is causing disruption in my rehabilitation. I am still paying a restitution judgment. I have brought this to the attention of my judge (Tillman Self III) in Middle District of Georgia. No one wants to pay attention to this issue.

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

Executed on: October 19, 2022

/s/ David A. Luster

(Signature)