

No. \_\_\_\_\_

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IN THE SUPREME COURT OF THE UNITED STATES

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Harold L. Wilborn Pro Se

*Petitioner*

v.

Alejandro N. Mayorkas  
United States Secretary  
of Homeland Security

*Respondent*

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On Petition for a Writ of Certiorari  
to the United States Court of Appeals  
for the Ninth Circuit

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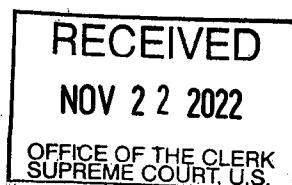
Rule 40.1: STATUTORY WAIVER OF FILING FEES AND COST

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Harold L Wilborn Pro Se  
15501 Harvard Avenue  
Cleveland, Ohio 44128-2041  
619-402-7975  
harold.wilborn@sbcglobal.net

U.S. Court of Appeals  
Ninth Circuit  
James R. Browning  
Courthouse  
95 7th Street  
San Francisco CA 94103

Solicitor General U.S.  
Rm 5616, Dept. of Justice  
950 Pennsylvania Ave. NW  
Washington, DC 20530-0001



Counsel of Record Rule 34.1

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No. \_\_\_\_\_

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IN THE SUPREME COURT OF THE UNITED STATES

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ON PETITION FOR A WRIT OF CERTIORARI

**Rule 40.1 : Statutory Wavier of Filling Fees and Cost  
(Proof of Service and Declaration)**

I Harold L. Wilborn, Petitioner Pro Se not being a member of the bar, state all parties required to be served have been served, this date November 18, 2022 as listed below. Service is made by declaration in compliance with 28 U.S.C. §1746. I am a service connected disabled veteran, A federal department, office, agency officer. . . may be a party to be served service shall be made on the Solicitor General of the United States, and U.S. Court of Appeals for the Ninth Circuit. Three copies prepared under Rule 29.4(a), and Rule 33.2., one for the appeals court and one for the Department of Homeland Security.

Harold L. Wilborn  
Harold L. Wilborn Pro Se

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No. \_\_\_\_\_

IN THE SUPREME COURT OF THE UNITED STATES

**MOTION-For leave to proceed as a veteran (U.S. Sup. Ct. R. 40(1)**

Harold L. Wilborn

*Petitioner, Pro Se:*  
Service-Connected  
Disable Veteran

Alejandro N. Mayorkas  
*Respondent*

Rule 40(1), as amended. The Petitioner respectfully moves the court for leave to file the attached Petition for Writ of Certiorari, without payment of cost and to proceed Pro Se, with other substantive documents; DD214, as a veteran Honorably discharged.

This is an action brought under the Uniformed Services Employment and Reemployment Rights Act of 1994 USERRA, Pub.L. 103-353, codified as amended at 38 U.S.C. §§ 4301-4335), prepared as required by Rule 33.2.

“ 38 U.S.C.A. §4323(h) FEES, COURT COSTS. — (1) No fees or court costs may be charged or taxed against any person claiming rights under this chapter. “ Above to establish reemployment rights under any provision of law exempting veterans from payment of fees or court cost.

Petitioner has previously proceeded as a Pro Se veteran in the following courts:

U.S. District Court for the Southern District of California and

U.S. Court of Appeals for the Ninth Circuit.

Attached is Petitioners affidavit and declaration in support of this motion showing his status as a veteran.

Date: November 18, 2022

Harold L. Wilborn  
15501 Harvard Avenue  
Cleveland, Ohio 44128

No \_\_\_\_\_

IN THE SUPREME COURT OF THE UNITED STATES

**Affidavit and Declaration in Support of Veteran's Motion**

**Harold L. Wilborn**

*Petitioner, Pro Se:*  
Service-Connected  
Disable Veteran

**Alejandro N. Mayorkas**  
*Respondent*

I Harold L. Wilborn do make the following declarations: "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing and following is true and correct." 28 U.S.C. §1746

I am a veteran. This affidavit prepared as required by Rule 40(1).

Date of entry on January 4<sup>th</sup>, 1978, serving continuously until June 13<sup>th</sup>, 1985, on which date I was honorably discharged. Certified copy of Form DD214 provided by U.S. Department of Veterans Affairs, Cleveland VA Regional Office, Cleveland Ohio, Ph. 1(216)698-2393.

Thereafter on October 7<sup>th</sup>, 2020, I instituted this suit in the United States District Court for the District of Southern California, to establish reemployment rights under the provisions of 38 U.S.C. § 4323, USERRA. The District Court after a entry of judgment for the respondent the United States Court of Appeals for the Ninth Circuit affirmed.

I now wish to file a petition for certiorari, as a veteran, seeking review of these judgements to be more fully informed.

Date; November 18, 2022

Harold L. Wilborn  
Petitioner's Signature

CAUTION: NOT TO BE USED FOR  
IDENTIFICATION PURPOSES

THIS IS AN IMPORTANT RECORD  
SAFEGUARD IT

ANY ALTERATIONS IN SHADED  
AREAS RENDER FORM VOID

DD FORM 1 JUL 79 214

PREVIOUS EDITIONS OF THIS  
FORM ARE OBSOLETE.

CERTIFICATE OF RELEASE OR DISCHARGE  
FROM ACTIVE DUTY

1. NAME (Last, first, middle)  
**WILBORN, HAROLD LENELL**

2. DEPARTMENT, COMPONENT AND BRANCH  
**NAVY - USN**

3. SOCIAL SECURITY NO.  
/ / /

4. GRADE, RATE OR RANK  
**STG2**

4b. PAY GRADE  
**ES**

5. DATE OF BIRTH  
**04JAN49**

6. PLACE OF ENTRY INTO ACTIVE DUTY  
**CLEVELAND OH**

7. LAST DUTY ASSIGNMENT AND MAJOR COMMAND  
**SSC NTC SAN DIEGO CA**

8. STATION WHERE SEPARATED  
**PSD NTC SAN DIEGO CA**

9. COMMAND TO WHICH TRANSFERRED  
**NA**

10. SGU COVERAGE  
AMOUNTS **35%** DDC  NONE

11. PRIMARY SPECIALTY NUMBER, TITLE AND YEARS AND  
MONTHS IN SPECIALTY (Additional specialty numbers and titles  
involving periods of one or more years)

**STG-0000**

12. RECORD OF SERVICE	YEAR (S)	MON (S)	DAY (S)
a. Date Entered AD This Period	<b>78</b>	<b>JAN</b>	<b>04</b>
b. Separation Date This Period	<b>85</b>	<b>JUN</b>	<b>13</b>
c. Not Active Service This Period	<b>07</b>	<b>05</b>	<b>20</b>
d. Total Prior Active Service	<b>00</b>	<b>00</b>	<b>00</b>
e. Total Prior Inactive Service	<b>00</b>	<b>05</b>	<b>00</b>
f. Foreign Service	<b>00</b>	<b>00</b>	<b>00</b>
g. Sea Service	<b>04</b>	<b>00</b>	<b>07</b>
h. Effective Date of Pay Grade	<b>81</b>	<b>DEC</b>	<b>31</b>
i. Reserve Oblig. Term. Date	<b>8A</b>		

13. DECORATIONS, MEDALS, BADGES, CITATIONS AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED (All periods of service)

NATIONAL DEFENSE SERVICE MEDAL; NAVY & MARINE CORPS EXPEDITIONARY MEDAL; HUMANITARIAN  
SERVICE MEDAL (SECOND); NAVY "E" AWARD; SEA SERVICE DEPLOYMENT RIBBON (1/2 STARS);  
NAVY EXPEDITIONARY MEDAL; GOOD CONDUCT AWARD; NAVY ACHIEVEMENT MEDAL//  
**X** **X**

14. MILITARY EDUCATION (Course Title, number weeks, and month and year completed)

SURFACE SONAR TECH "A" SCOL **{6 WKS}** MAY 78; SONAR AN/SQS-23D-G OPR BASIC **{3 WKS}**  
JUN 78; 3-M MGMT **{1 WK}** AUG 78; BE/E SCOL **{12 WKS}** AUG 80; MK114 UNIFCS MAINT. **{16 WKS}**  
OCT 80; SONAR COMM SET AN/HQC-2/2A **{1 WK}** MAY 82; FASUTRNG 2/2A OP & MAINT. **{1 WK}**  
MAY 82// **X** **X**

15. MEMBER CONTRIBUTED TO POST-VIETNAM ERA  
VETERANS EDUCATIONAL ASSISTANCE PROGRAM

YES **X** NO

16. HIGH SCHOOL GRADUATE OR EQUIVALENT

**X** YES  NO

17. DAYS ACCRUED  
(LEAVE PAID) **44.0**

18. REMARKS

BLK 34 CONT: SIMA OPS **{1 WK}** SEP 82; AN/HQC-5 OPS & MAINT. **{1 WK}** OCT 82. ENLISTMENT  
EXTENDED FOR 24 MONTHS ON 02JAN83; AND FOR MEDICAL REASONS (LIMBD) ON 04JAN83;  
EXTENSIONS OF SERVICE WERE AT THE REQUEST AND FOR THE CONVENIENCE OF THE GOVERNMENT//  
REPORT OF DENTAL EXAM: SUBJECT MEMBER WAS PROVIDED A COMPLETE DENTAL EXAMINATION BUT  
WAS NOT PROVIDED ALL APPROPRIATE DENTAL SERVICES AND TREATMENT. CONSEQUENTLY, MEMBER  
IS ENTITLED TO VA DENTAL TREATMENT WITHIN 90 DAYS OF DISCHARGE/RELEASE FROM ACTIVE  
DUTY//  
**X** **X**

*Certified to be  
a true copy. 01/4/85  
R. C. DeGuzman, PNC, MILPERSDIVOFF*

19. MAILING ADDRESS AFTER SEPARATION

**15503 HARVARD AVE CLEVELAND CUYAHOGA OH 44128**

20. MEMBER REQUESTS COPY 6 BE

**OH**

DIR. OF VET

AFFAIRS

YES  NO

21. SIGNATURE OF MEMBER BEING SEPARATED

*R. C. DeGuzman*

22. TYPED NAME, GRADE, TITLE AND SIGNATURE OF OFFICIAL

AUTHORIZED TO SIGN

**R. C. DEGUZMAN, PNC, MILPERSDIVOFF**

23. TYPE OF SEPARATION

**DISCHARGED**

24. CHARACTER OF SERVICE (Includes upgrades)

**HONORABLE**

25. SEPARATION AUTHORITY

**MILPERSMAN 3620150**

26. SEPARATION CODE

**JK**

27. REENLISTMENT CODE

**RE-R1**

28. NARRATIVE REASON FOR SEPARATION

**EXPIRATION OF TERM OF ENLISTMENT**

29. DATES OF TIME LOST DURING THIS PERIOD

**NONE**

30. MEMBER REQUESTS COPY 4

*R. C. DeGuzman* INITIALS