

22-6734

IN THE

SUPREME COURT OF THE UNITED STATES

Lee & Suesie Kent Hempfling
(Your Name) — PETITIONER

VS.

Department of Justice — 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 District Court of Arizona, United States District Court of South Carolina, United States Appeals Court Ninth Circuit, Arizona Superior Court Pinal County, Arizona Appeal Court Second Division, Arizona Supreme Court, Pinal County Justice Court

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)

(Signature)

ORIGINAL

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

We, Lee & Suesie Kent Hempfling, are the petitioners in the above-entitled case. In support of our motion to proceed in forma pauperis, we state that because of our poverty we are unable to pay the costs of this case or to give security therefor; and we firmly believe we are 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	\$ _____	\$ _____	\$ _____	\$ _____
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)	\$ 1144.00	\$ 649.00	\$ 1248.00*	\$ 705.00
Disability (such as social security, insurance payments)	\$ _____	\$ _____	\$ _____	\$ _____
Unemployment payments	\$ _____	\$ _____	\$ _____	\$ _____
Public-assistance (such as welfare)	\$ _____	\$ _____	\$ _____	\$ _____
Other (specify): _____	\$ _____	\$ _____	\$ _____	\$ _____
Total monthly income:	\$ 1144.00	\$ 649.00	\$ 1248.00	\$ 705.00

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
Retired Radio Personality			\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____

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
Retired			\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____

4. How much cash do you and your spouse have? \$ 44.00
 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
—	\$ _____	\$ _____
— Just joint checking, no savings, we only have this because its early in the month.	\$ 360.00	360.00
—	\$ _____	_____

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 2001 Honda Accord
 Value _____ \$798.00 (KBB 12/31/22)
- 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
_____	_____	_____
_____	_____	_____
_____	_____	_____

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)	1,170.15 \$ _____	\$ _____
Are real estate taxes included? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Is property insurance included? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	594.15 \$ _____	\$ _____
Home maintenance (repairs and upkeep)	150.00 \$ _____	\$ _____
NONE		
Food	300.00 \$ _____	\$ _____
Clothing	-0- \$ _____	\$ _____
Laundry and dry-cleaning	25.00 \$ _____	\$ _____
Medical and dental expenses	80.00 \$ _____	\$ _____

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ 80.00	\$ _____
Recreation, entertainment, newspapers, magazines, etc.	\$ -0-	\$ _____
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ 14.00	\$ _____
Life	\$ _____	\$ _____
Health	\$ _____	\$ _____
Motor Vehicle	\$ 52.00	\$ _____
Other: _____	\$ _____	\$ _____
Taxes (not deducted from wages or included in mortgage payments)		
(specify): _____	\$ _____	\$ _____
Installment payments		
Motor Vehicle	\$ _____	\$ _____
Credit card(s)	\$ 170.00*	\$ _____
Department store(s)	\$ _____	\$ _____
Other: <u>Jewish Free Loan Assoc</u>	\$ 25.00	\$ _____
Alimony, maintenance, and support paid to others	\$ 50.00	\$ _____
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ _____	\$ _____
Other (specify): _____	\$ _____	\$ _____
Total monthly expenses:	\$ 2710.30	\$ _____

*= reducing as card companies write off the accounts. These expenses are not always made every month. When possible.

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.

When we first filed this petition, we were living in the same home we had been for 15 years, never missing a rent payment. We could not afford these fees then. Shortly after filing the petition and before it was returned to us, the new owner of the property caused a serious problem when he refused to honor the contract.

Criminal complaints were filed in Apache Junction, Arizona against the landlord/real estate agent/owner of the property for multiple counts of extortion, theft by extortion, intimidation and harassment. The Apache Junction Police Detectives found probable cause and submitted the case to the Pinal County Attorney's Office over a month before we were evicted. Later during trial: investigations and charges were demanded for illegal wiretapping of the Justice Court proceedings and multiple written threats made to Lee Hempfling to stop defending the case.

In the irony of all ironies, this petition first returned to us in the mail the morning we were evicted from our home. Had the clerk waited one day we would never have received it. The house was immediately rented to another family with our contents, our furniture, our food and all of my tools. We never missed a rent payment and were never late.

The owner decided to not agree to the contract, rejecting it outright in bad faith, needing a great deal of more money to continue in the home. The contract prohibited what he did. So did state law. He filed for eviction in the Justice Court, Case Number: J-1107-CV-2021001012 JLK REAL ESTATE INVESTMENT Corp 9/3/2021 : Pinal County Justice Court. The police and court were warned beforehand that the eviction was illegal and would be the commission of another crime. The Justice of the Peace was pleaded with to not permit the action as it was the commission of the final act of extortion and criminal investigations had been underway for two months. The eviction was based in pure extortion.

What should have been known to the prosecutor (a very familiar name since *Hempfling v Volkmer* in the Ninth Circuit IS that prosecutor) was the supersedes bond requirements in Arizona whether it was a legal eviction or not. The prosecutor and the judge placed the order of eviction on the docket the day before the trial was to happen. At trial, it was changed to a hearing without notice wherein the landlord's attorney admitted the landlord was spying on the court in wiretapping the conference call at that very moment, without notifying the court.

The attorney quickly admitted he would never have filed the eviction had he been aware of what the contract actually said. He blamed that on the landlord.

Immediately afterward the Justice of the Peace awarded the case to the landlord. That meant because of the supersedes bond we were forced out of our house with 5 days court notice and no notice of eviction, No legal proceeding took place. Lee

Hempfling was not permitted to enter a plea, although the court said he did, was not able to offer a defense and was prohibited from filing a counter claim. After repeated attempts to get the prosecutor to end the case so we could not be kicked out of our home, the prosecutor ignored the case. The Judge ignored the Rule 12B6 motion to dismiss. The county attorney's victim's rights office ignored pleas for help.

The prosecutor (Kent Volkmer primary defendant in Ninth Circuit Court of Appeals Docket #: 17-16329 Termed: 12/26/2017 Lee Hempfling, et al v. Kent Volkmer,) either lost (?) or misplaced (?) or (?) the Apache Junction Police investigation for an entire month never stopping the crimes. To this day no charges have been filed in these crimes or the crimes against the Justice Court.

A complaint letter to the prosecutor was placed on the court docket by the Justice of the Peace. We were told 'it' was to end the following week, when that came: someone called the Justice of the Peace (who did not run for reelection in 2022) and stopped the ending. It has sat, unanswered, ignored and has been given reprehensible treatment by a defendant in a federal civil case this filing addresses. The irony is too deep. The very issues raised in the petition are repeated in Justice Court.

Since that eviction, and because of it, we were homeless, living in motel rooms on borrowed money for two months. Suesie Hempfling takes drug therapy for cancer at home every day (CLL). In a motel room. We lost all of our furniture except a bed, a rocking chair, a TV and microwave. The TV broke in the move. We saved the computer and files and lost all carpenter tools, all yard tools, all kitchen utensils and cookware and all food (having just visited the monthly county food bank.)

We were saved from the literal lack of money homelessness: rescued by the Pinal County Community Action Agency (CAHRA) who helped us pay off the utility debt we acquired from being homeless and gave us our deposit and first month rents, The Jewish Free Loan Association of Phoenix paid off utility bills (which we still owe repayment \$25 a month no interest) and the Arizona Department of Economic Security's Emergency Rental Assistance program who has vetted us in great detail and provided an 18 month rent payment subsidy to help us recover. Which should end in April of 2023. A major part of the funding requirements for the AZDES ERA program is a negative impact from COVID19. We both had Covid19. Suesie Hempfling's drug therapy seemed to make her experience less intense. On the other hand, Lee Hempfling had a small heart attack and continual deep breathing problems from it. Then we had an unscrupulous landlord hide behind the eviction moratorium by attacking the property he never had missed payments from.

We had been slowly rebuilding credit with five open and paid on-time card bills each month for years. When this illegal eviction happened, all five cards defaulted and the credit rating was destroyed.

Then, adding insult: our debit card number from Wells Fargo was stolen shortly after we moved into the recovery house. It cleaned us out. Luckily after a short while the bank returned the stolen money.

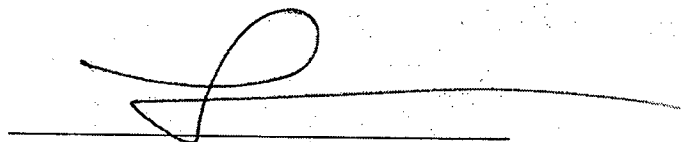
In what can only be described as a strange screw up: The acceptance from AZDES for rent subsidy was partially stopped without our knowledge in October of 2022 when a working at home contractor managed to do something to the paperwork. October's assistance was not paid. That meant the entire Social Security received in November by Lee Hempfling was sent for the October rent. Top that with another mess up in the utilities program, and the promise of temporary helping with electricity, trash and water bills become help with electricity only. The water assistance was being sent to a wrong water company. That seems to be cleared up for now. We just saw our first sewer bill even while we pay it to the landlord each month. \$44.15. Two months and a shut off notice and nearly a hundred dollars in late water bills took most of what was left for November.

Then, the electricity went out in our home. The electrician cost \$154.50. We have been reimbursed for that expense. Sending these documents took everything we had (over food and automatic payments) so filing it as soon as possible takes money we did not have.

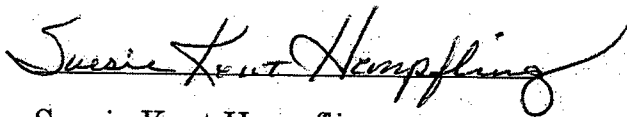
We still have very little furniture other than what used items we have found in thrift shops or family provided. We humbly ask that you grant this petition for in forma pauperis status.

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

Executed this 3rd day of February 2023.

A handwritten signature in black ink, appearing to read "Lee Kent Hempfling", written over a horizontal line.

Lee Kent Hempfling

A handwritten signature in black ink, appearing to read "Suesie Kent Hempfling", written over a horizontal line.

Suesie Kent Hempfling