

22-6738

IN THE UNITED STATES SUPREME COURT OF APPEALS

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

FILED  
FEB 02 2023  
OFFICE OF THE CLERK  
SUPREME COURT, U.S.

MELVIN SIMMS,  
PETITIONER

VS.

DONALD F. AMES, Superintendent  
Mount Olive Correctional Complex  
RESPONDENT

**MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS***

COMES NOW the Petitioner, Melvin Simms, *pro se*, to move this Honorable Court to grant him leave to file the attached petition for a Writ of Certiorari without prepayment of costs and to proceed *in forma pauperis*. Petitioner has previously been granted leave to proceed *in forma pauperis* in the West Virginia Supreme Court of Appeals, as well as the United States District Court for the Northern District of West Virginia and the Fourth Circuit Court of Appeals. Petitioner's affidavit or declaration in support of this motion is attached hereto.

Respectfully Submitted,  
Melvin Simms, *pro se*



Melvin Simms  
Mount Olive Correctional Complex  
One Mountainside Way  
Mount Olive, West Virginia 25185

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

I, Melvin Simms, 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 therefore, 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, bi-weekly, 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	\$ 81	\$ 0	\$ 81	\$ 0
Self-employment	\$ 0	\$ 0	\$ 0	\$ 0
Income from real property (such as rental income)	\$ 0	\$ 0	\$ 0	\$ 0
Interest and Dividends	\$ 0	\$ 0	\$ 0	\$ 0
Gifts	\$ 0	\$ 0	\$ 0	\$ 0
Alimony	\$ 0	\$ 0	\$ 0	\$ 0
Child Support	\$ 0	\$ 0	\$ 0	\$ 0
Retirement (such as social security, pensions, annuities, insurance)	\$ 0	\$ 0	\$ 0	\$ 0
Disability (such as social security, insurance payments)	\$ 0	\$ 0	\$ 0	\$ 0
Unemployment Payments	\$ 0	\$ 0	\$ 0	\$ 0
Public-Assistance (such as welfare)	\$ 0	\$ 0	\$ 0	\$ 0
Other: [ <i>description</i> ]	\$ 0	\$ 0	\$ 0	\$ 0
<b>Total Monthly Income:</b>	<b>\$ 81</b>	<b>\$ 0</b>	<b>\$ 81</b>	<b>\$ 0</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>	<b>Address</b>	<b>Dates of Employment</b>	<b>Gross Monthly Pay</b>
Mt. Olive Corr. Cmplx. Kitchen	1 Mountainside Way, Mt. Olive, WV 25185	2020-Present	\$ 81
N/A	N/A	N/A	\$ 0
N/A	N/A	N/A	\$ 0

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>	<b>Address</b>	<b>Dates of Employment</b>	<b>Gross Monthly Pay</b>
N/A	N/A	N/A	\$ 0
N/A	N/A	N/A	\$ 0
N/A	N/A	N/A	\$ 0

4. How much cash do you or your spouse have? \$ 100

Below, state any money you or your spouse have in bank accounts or any other financial institution.

<b>Financial institutional</b>	<b>Type of Account</b>	<b>Amount You Have</b>	<b>Amount Your Spouse Has</b>
Mt. Olive Corr. Cmplx.	Inmate Trust Account	~ \$100	\$ 0
		\$ 0	\$ 0
		\$ 0	\$ 0

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

<b>Asset</b>	<b>Year, Make &amp; Model</b>	<b>Value</b>
<b>Home</b>	N/A	\$ 0
<b>Other Real Estate</b>	N/A	\$ 0
<b>Motor Vehicle #1</b>	N/A	\$ 0
<b>Motor Vehicle #2</b>	N/A	\$ 0
<b>Other Assets:</b>	N/A	\$ 0

6. State every person, business or organization owing you or your spouse money, and the amount owed.

<b>Person Owing You or Your Spouse Money</b>	<b>Amount Owed to You</b>	<b>Amount Owed to Your Spouse</b>
None	\$ 0	\$ 0
None	\$ 0	\$ 0
None	\$ 0	\$ 0

7. State the person[s] who rely on you or your spouse for support.

<b>Name</b>	<b>Relationship</b>	<b>Age</b>
N/A	N/A	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.

	<b>You</b>	<b>Your Spouse</b>
Rent or home-mortgage payment (include lot rented for mobile home) Are real estate taxes included? <input type="checkbox"/> Is property insurance included? <input type="checkbox"/>	\$ 0	\$ 0
Utilities (electricity, heating fuel, water sewer, and telephone)	\$ 3	\$ 0
Home maintenance (repairs and upkeep)	\$ 0	\$ 0
Food	\$ 0	\$ 0
Clothing	\$ 0	\$ 0
Laundry and dry-cleaning	\$ 0	\$ 0
Medical and dental expenses	\$ 0	\$ 0
Transportation (not including motor vehicle payment)	\$ 0	\$ 0
Recreation, entertainment, newspapers, magazines, etc.	\$ 0	\$ 0
Insurance (not deducted from wages or included in mortgage payments)	\$ 0	\$ 0

<b>Estimated Average <u>Monthly</u> Expenses (Continued)</b>	<b>You</b>	<b>Your Spouse</b>
Homeowner's or renter's	\$ 0	\$ 0
Life	\$ 0	\$ 0
Health	\$ 0	\$ 0
Motor Vehicle	\$ 0	\$ 0
Other: <b>Mandatory Savings Deduction</b>	\$ 8.10	\$ 0
Taxes (not deducted from wages or included in mortgage payments)		
Specify: N/A	\$ 0	\$ 0
Installment payments		
Motor Vehicle	\$ 0	\$ 0
Credit Card(s)	\$ 0	\$ 0
Department Store(s)	\$ 0	\$ 0
Other: N/A	\$ 0	\$ 0
Alimony, maintenance, and support paid to others	\$ 0	\$ 0
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ 0	\$ 0
Other: N/A	\$ 0	\$ 0
<b>Total Monthly Expenses:</b>	<b>\$ 11.10</b>	<b>\$ 0</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? \$

If yes: **Attorney's Name -**  
**Address -**  
**Telephone Number -**

11. Have you paid - or will 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: **Person's Name -**  
**Address -**  
**Telephone Number -**

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

**Petitioner is an incarcerated indigent in the State of West Virginia Department of Corrections and Rehabilitation.**

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

Executed on this 2 day of February, 2023

Respectfully Submitted,  
Melvin Simms, *pro se*



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Melvin Simms  
Mount Olive Correctional Complex  
One Mountainside Way  
Mount Olive, West Virginia 25185