

22-6978

No. _____

ORIGINAL

Supreme Court, U.S.
FILED

FEB 24 2023

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

10th Circuit

DECHAUN TOLIVER — PETITIONER
(Your Name)

VS.

_____ — 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.

Dech

(Signature)

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

I, DECHAUN TOLIVER, 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	\$ _____	\$ _____	\$ _____	\$ _____
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>	\$ _____
Total monthly income:	\$ <u>0</u>	\$ <u>—</u>	\$ <u>0</u>	\$ <u>—</u>

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
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____

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
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____

4. How much cash do you and your spouse have? \$ _____
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
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____

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 _____

NO ASSETS

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)	\$ <u>0</u>	\$ <u>0</u>
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)	\$ <u>0</u>	\$ <u>0</u>
Home maintenance (repairs and upkeep)	\$ <u>0</u>	\$ <u>0</u>
Food	\$ <u>0</u>	\$ <u>0</u>
Clothing	\$ <u>0</u>	\$ <u>0</u>
Laundry and dry-cleaning	\$ <u>0</u>	\$ <u>0</u>
Medical and dental expenses	\$ <u>0</u>	\$ <u>0</u>

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

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

Im Incarcerated.

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

Executed on: ~~FEBRUARY~~ FEBRUARY 15, 2023



(Signature)

FINANCIAL DISCLOSURE FORM
(\$25.00 application fee may be assessed—see notice on reverse side)

I. PERSONAL INFORMATION

Applicant's Legal Name DELTAUN EMIL TOLIVER		Applicant's Preferred Name and Pronoun 		D.O.B. 08-19-93
Mailing Address STRATEL 63 P.O BOX 56 LEBANON, OHIO 45036			City LEBANON	
State OHIO	Zip Code 45036	Case No. 	Phone 	Cell Phone
SSN Last 4 5163	Gender M	Race (double-click to de-select) <input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Asian <input checked="" type="checkbox"/> Black or African American <input type="checkbox"/> Native Hawaiian or Pacific Islander <input type="checkbox"/> Spanish or Latino <input type="checkbox"/> White <input type="checkbox"/> Other		

II. OTHER PERSONS LIVING IN HOUSEHOLD

Name	D.O.B.	Relationship	Name	D.O.B.	Relationship
1)			3)		
2)			4)		

III. PRESUMPTIVE ELIGIBILITY

The appointment of counsel is presumed if the person represented meets any of the qualifications below. Please place an 'X'

Ohio Works First / TANF: ____ SSI: ____ SSD: ____ Medicaid: ____ Poverty Related Veterans' Benefits: ____ Food Stamps: ____

Refugee Settlement Benefits: ____ Incarcerated in state penitentiary: ☒ Committed to a Public Mental Health Facility: ____

Other (please describe): _____ Juvenile: ____ (if juvenile, please continue at Section VIII)

IV. INCOME AND EMPLOYER

	Applicant	Spouse <small>(Do not include spouse's income if spouse is alleged victim)</small>	Total Income
Gross Monthly Employment Income	\$	\$	\$
Unemployment, Worker's Compensation, Child Support, Other Types of Income	\$	\$	\$
TOTAL INCOME			\$

Employer's Name: _____ Phone Number: () _____

Employer's Address: _____

V. LIQUID ASSETS

Type of Asset	Estimated Value
Checking, Savings, Money Market Accounts	\$
Stocks, Bonds, CDs	\$
Other Liquid Assets or Cash on Hand	\$
Total Liquid Assets	\$

VI. MONTHLY EXPENSES

Type of Expense	Amount	Type of Expense	Amount
Child Support Paid Out	\$	Telephone	\$
Child Care (if working only)	\$	Transportation / Fuel	\$
Insurance (medical, dental, auto, etc.)	\$	Taxes Withheld or Owed	\$
Medical / Dental Expenses or Associated Costs of Caring for Infirm Family Member	\$	Credit Card, Other Loans	\$
Rent / Mortgage	\$	Utilities (Gas, Electric, Water / Sewer, Trash)	\$
Food	\$	Other (Specify)	\$
EXPENSES	\$	EXPENSES	\$

VII. DETERMINATION OF INDIGENCY

If applicant's Total Income in Section IV is at or below 187.5% of the Federal Poverty Guidelines, counsel must be appointed.

For applicants whose Total Income in Section IV is above 125% of the Federal Poverty Guidelines, see recoupment notice in Section XI.

If applicant's Liquid Assets in Section V exceed figures provided in OAC 120-1-03, appointment of counsel may be denied if applicant can employ counsel using those liquid assets.

If applicant's Total Income falls above 187.5% of Federal Poverty Guidelines, but applicant is financially unable to employ counsel after paying monthly expenses in Section VI, counsel must be appointed.

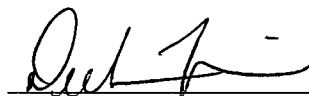
VIII. \$25.00 APPLICATION FEE NOTICE

By submitting this Financial Disclosure Form, you will be assessed a non-refundable \$25.00 application fee unless waived or reduced by the court. If assessed, the fee is to be paid to the clerk of courts within 7 days of submitting this form to the entity that will make a determination regarding your indigency. No applicant may be denied counsel based upon failure or inability to pay this fee.

IX. APPLICANT CERTIFICATION

I, DECHAUN EMIL TOIVER (applicant or alleged delinquent child) state:

1. I am financially unable to retain private counsel without substantial hardship to me or my family.
2. I understand that I must inform the public defender or appointed attorney if my financial situation should change before the disposition of the case(s) for which representation is being provided.
3. I understand that if it is determined by the county or the court that legal representation should not have been provided, I may be required to reimburse the county for the costs of representation provided. Any action filed by the county to collect legal fees hereunder must be brought within two years from the last date legal representation was provided.
4. I understand that I am subject to criminal charges for providing false financial information in connection with this application for legal representation, pursuant to Ohio Revised Code sections 120.05 and 2921.13.
5. I hereby certify that the information I have provided on this financial disclosure form is true to the best of my knowledge.



Signature

FEB 22, 2023

Date

X. JUDGE CERTIFICATION

I hereby certify that the above-noted applicant is unable to fill out and/or sign this financial disclosure for the following reason: _____. I have determined that the party represented meets the criteria for receiving court-appointed counsel.

Judge's Signature

Date

XI. NOTICE OF RECOUPMENT

ORC §120.03 allows for county recoupment programs. Any such program may not jeopardize the quality of defense provided or act to deny representation to qualified applicants. No payments, compensation, or in-kind services shall be required from an applicant or client whose income falls below 125% of the federal poverty guidelines. See OAC 120-1-05.

Through recoupment, an applicant or client may be required to pay for **part** of the cost of services rendered, if he or she can reasonably be expected to pay. See ORC §2941.51(D)

XII. JUVENILE'S PARENTS' INCOME* – FOR RECOUPMENT PURPOSES ONLY – NOT FOR APPOINTMENT OF COUNSEL

	Custodial Parents' Income (Do not include parents' income if parent or relative is alleged victim)	Total
Employment Income (Gross)	\$	\$
Unemployment, Workers Compensation, Child Support, Other Types of Income	\$	\$
	TOTAL INCOME	\$

*Please complete Section VI on page 1 of this form if you would like the court to consider your monthly expenses when determining the amount of recoupment which you can reasonably be expected to pay.

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES
6th Circuit

Dechann Toliver — PETITIONER
(Your Name)

VS.

_____ — RESPONDENT(S)

PROOF OF SERVICE

I, Dechann Toliver, do swear or declare that on this date, FEBRUARY 22, 2023, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

CLERK OF Supreme Court of the United States
1 1st ST NE - WASHINGTON, DC 20543-0001

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

Executed on FEBRUARY 22, 2023

Dechann Toliver
(Signature)