

NO. 23-5538

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IN THE  
SUPREME COURT OF THE UNITED STATES

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NOEL L. BROWN - PETITIONER

VS.

KEN HOLLIBAUGH, Superintendent, State Correctional Institution at Somerset  
RESPONDENT(S)

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ON PETITION FOR RECONSIDERATION OF  
LEAVE TO PROCEED IN FORMA PAUPERIS TO  
PETITION FOR WRIT OF CERTIORARI TO  
THE UNITED STATES SUPREME COURT

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(NAME OF COURTS THAT LAST RULED ON THE MERITS OF THIS CASE)

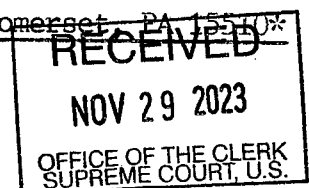
(THE UNITED STATES SUPREME COURT) &

(THE SUPREME COURT OF PENNSYLVANIA WESTERN DISTRICT)

Petition for reconsideration of

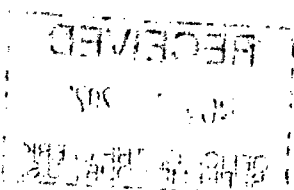
Petition for leave to proceed in forma pauperis under 28 U.S.C. §1915(b)(2) &  
Petition for reconsideration of Writ of Certiorari under 28 U.S.C. §1257

NOEL L. BROWN - MW0387 SCI-Somerset 1590 Walter mill road Somerset, PA 15507



QUESTIONS PRESENTED

1. Whether the petitioner's motion for leave to proceed in forma pauperis, under the penalties provided by 28 U.C.S. §1746 (unsworn falsification to authorities) that because of financial conditions he is incapable to pay the following fees and cost: COURT FEES, COST OF REPRODUCING RECORDS, PETITION FOR A WRIT OF CERTIORARI FEES, IF IRREPARABLE HARM WOULD RESULT IF NOT WAIVED, malicious or frivolous?
2. Whether petition for leave to proceed in forma pauperis with this court is of little importance or without good cause, relating to my ability to pay the fees and cost of prosecuting petition for writ of certiorari?
3. Whether the United States Supreme Court has violated its ethics or fiduciary duty in its watershed order in the above titled case?
4. Whether petitioner's pro se, petition for leave to proceed in forma pauperis, and petition for writ of certiorari, should be held to less stringent standards than formal petitions that are drafted by lawyers?
5. Whether the petition has at the least an arguable basis in law. That the State failed to disclose prima facie material fact that Warden Eric Tice, was no longer warden of SCI-Somerset. Whereat, the Supreme Court of Pennsylvania Western District, should only have dismissed petitioner's filings without prejudice, and order to amend his filings?
6. Whether failure to consider petitioner's federal and state claims will result in a fundamental miscarriage of justice?



## LIST OF PARTIES

A list of all parties to the proceedings in the court whose judgment is the subject of this petition for leave to proceed in forma pauperis, and for writ of certiorari is as follows: Ken Hollibaugh, Superintendent, State Correctional Institution at Somerset

TABLE OF AUTHORITIES CITED

HURLES V. RYAN.....WOOD V. RYAN.....

MURRAY V. CARRIER.....

UNITED STATES V. FRADY.....

STATUTES AND RULES CITED:

28 U.S.C. §1257

28 U.S.C. §1746

28 U.S.C. §1915(b)(2)

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CERTIORARI

INDEX TO APPENDIX

APPENDIX (A) COPY OF THE UNITED STATES COURT ORDER.

APPENDIX (B) COPY OF THE MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS, ALONG WITH THE  
RECENT MONTHS MONTHLY ACCOUNT STATEMENT.

IN THE SUPREME COURT OF THE UNITED STATES  
FOR LEAVE TO PROCEED IN FORMA PAUPERIS AND FOR WRIT OF CERTIORARI

Petitioner Noel L. Brown, respectfully request that the U.S. Supreme Court, to allow an petition for leave to proceed in forma pauperis on reconsideration to petition for writ of certiorari. Because the impact of its denial of such clear constitutional rights result in a fundamental miscarriage of justice.

OPINION/ORDER

The order of the U.S. Supreme Court, appears at appendix (A), to this petition, and is reported at the U.S. Supreme Court, on November 13, 2023.

## JURISDICTION

The date on which the U.S. Supreme Court decided my case appears at appendix (A).

The Jurisdiction of the United States Supreme Court, is invoked under 28 U.S.C. §1257

7  
CONSTITUTION AND STATUTORY PROVISIONS INVOLVED

1. The petitioner has been previously granted leave to proceed in forma pauperis in the following court (SUPREME COURT OF PENNSYLVANIA WESTERN DISTRICT). Whereat ethics require that this court also grant leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1746 (unsworn falsification to authorities).
2. Leave is necessary to resolved that some objective factor external to the petition impeded his effort to comply with the states procedural rules.
3. Constitutional right to access to court.



STATEMENT OF THE CASE

This case was brought to be considered on the records from the Supreme Court of Pennsylvania Western District, and was submitted to the United States Court. Based on abuse of discretion review, error of law dismissal and actual and substantial disadvantage, infecting petitioner's entire Writ of Habeas Corpus with error of constitutional dimensions. In which the court did not specify whether said dismissal was without prejudice and allow for amend.

REASON FOR GRANTING THE PETITION FOR RECONSIDERATION FOR THE GRANTING OF PETITION FOR  
LEAVE TO PROCEED IN FORMA PAUPERIS, AND FOR PETITION FOR WRIT OF CERTIORARI REVIEW

As certified in the accompanying Motion for Leave to Proceed in Forma Pauperis, and that provided by 28 U.S.C. §1746 and 28 U.S.C. §1915(b)(2). Petitioner is unable to retain counsel or pay the cost of this proceeding. Whereat, petitioner state under penalties provided in unsworn falsification to authorities that: "I am the petitioner in the above action and because of my financial condition, I" am incapable to pay the following fees and cost: COURT FEES, COST OF PETITION FOR A WRIT OF CERTIORARI, FILING OF RECONSIDERATION, IF IRREPARABLE HARM WOULD RESULT IF NOT WAIVED.

CONCLUSION:

A controlling question of ethics exist as to which there is a substantial ground for a difference of opinion and an immediate reconsideration from the order may materially advance the outcome of the case.

In Sum, Rule 39.8, should not be used to dismiss the exception, constitutional violation has probably resulted in the conviction of one who is actually wholly innocent of the offenses that is the subject of his habeas corpus petition within the Supreme Court of Pennsylvania.

WHEREFORE, motion for leave to proceed in forma pauperis must be GRANTED. Thank You.

11/16/2023

Respectfully Submitted,



COMBINED CERTIFICATION

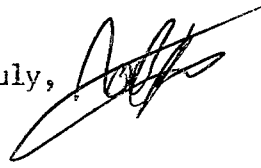
I Noel L. Brown, hereby certify that the grounds incorporated within this petition for Leave to Proceed in Forma Pauperis, and for petition for Writ of Certiorari, reconsideration are limited to intervening circumstances of substantial and controlling effect.

I further certify that the petition for reconsideration is presented in good faith, not for any other frivolous malicious reasons, or frivolous.

DECLARATION OF SERVICE

I Noel L. Brown, pursuant to 28 U.S.C. §1746, declares under penalty of perjury as follows; that on November 16, 2023. I mailed the attached petition to reconsider, via the United States Postal Service to the following address: Ken Hollibaugh, Superintendent, 1590 Walter Mill Road Somerset, PA 15510.  
Pennsylvania Attorney General Office, at 18th FL. Strawberry Square Harrisburg, PA 17101.

11/16/2023

Yours Truly, 

Appendix (A)

Supreme Court of the United States  
Office of the Clerk  
Washington, DC 20543-0001

Scott S. Harris  
Clerk of the Court  
(202) 479-3011

November 13, 2023

Mr. Noel Brown  
Prisoner ID #MW0387  
SCI Somerset  
1600 Walter Mill Road  
Somerset, PA 15510

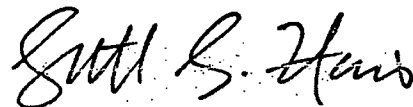
Re: Noel Brown  
v. Ken Hollibaugh, Superintendent, State Correctional Institution  
at Somerset  
No. 23-5538

Dear Mr. Brown:

The Court today entered the following order in the above-entitled case:

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of certiorari is dismissed. See Rule 39.8.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott S. Harris", written in a cursive style.

Scott S. Harris, Clerk

No. 23-5538

IN THE  
SUPREME COURT OF THE UNITED STATES

NOEL BROWN — PETITIONER  
(Your Name)

VS.

KEN HOLLIBAUGH, Superintendent, SCL 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):

SUPREME COURT OF PENNSYLVANIA WESTERN DISTRICT

☐ Petitioner has not previously been granted leave to proceed *in forma pauperis* in any other court.

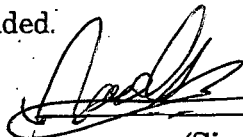
☒ Petitioner's affidavit or declaration in support of this motion is attached hereto.

☐ 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)

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

I, NOEL BROWN, 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	\$ 0	\$ 0	\$ 0	\$ 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 (specify): <u>none</u>	\$ 0	\$ 0	\$ 0	\$ 0
<b>Total monthly income:</b>	\$ 0	\$ 0	\$ 0	\$ 0

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
NONE	N/A	N/A	\$ NONE 0
NONE	N/A	N/A	\$ NONE 0
NONE	N/A	N/A	\$ NONE 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.)

Employer	Address	Dates of Employment	Gross monthly pay
NONE	N/A	N/A	\$ 0
NONE	N/A	N/A	\$ 0
NONE	N/A	N/A	\$ 0

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
NONE	\$ 0	\$ 0
NONE	\$ 0	\$ 0
NONE	\$ 0	\$ 0

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

☐ Home  
Value 0

☐ Other real estate  
Value 0

☐ Motor Vehicle #1  
Year, make & model 0  
Value 0

☐ Motor Vehicle #2  
Year, make & model 0  
Value 0

☐ Other assets  
Description NONE  
Value 0



	You	Your spouse
Transportation (not including motor vehicle payments)	\$ 0	\$ 0
Recreation, entertainment, newspapers, magazines, etc.	\$ 0	\$ 0
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ 0	\$ 0
Life	\$ 0	\$ 0
Health	\$ 0	\$ 0
Motor Vehicle	\$ 0	\$ 0
Other: N/A	\$ 0	\$ 0
Taxes (not deducted from wages or included in mortgage payments)		
(specify): NONE	\$ 0	\$ 0
Installment payments		
Motor Vehicle	\$ 0	\$ 0
Credit card(s)	\$ 0	\$ 0
Department store(s)	\$ 0	\$ 0
Other: NONE	\$ 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 (specify): NONE	\$ 0	\$ 0
<b>Total monthly expenses:</b>	<b>\$ 0</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? 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.

I AM A PLAINTIFF/PETITIONER IN THIS CASE AND DECLARE THAT I AM UNABLE TO PAY THE COSTS OF THESE PROCEEDINGS AND I BELIEVE THAT I AM ENTITLED TO THE RELIEF REQUESTED IN THIS ACTION. IN SUPPORT OF THIS APPLICATION TO PROCEED IN (IFP) I DECLARE THE ABOVE

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

Executed on: 11-17-2023, 2023

  
(Signature)

No. 23-5538

**CERTIFICATION OF PRISON ACCOUNT STATEMENT**

**NOTICE TO PRISONER:** You must submit to this Court a certified copy of your prison trust fund account statement (or institutional equivalent) for each institution in which you have been confined for the six-month period immediately preceding the date of this application. 28 U.S.C. § 1915(a)(2). If you were housed in more than one institution in the past 6 months, a copy of the certification must be completed by each institution. The following certification from an authorized officer of your institution(s) must accompany the account statement(s):

**NOTICE TO PRISON OFFICIALS:** Pursuant to the Prison Litigation Reform Act, you will be obligated to forward payments to the appropriate United States District Court if the prisoner herein is granted leave to proceed in forma pauperis. 28 U.S.C. § 1915(b)(2) (April 26, 1996). Pursuant to that statute, once an initial partial fee is paid, the prison official in charge of the prisoner's account must forward monthly payments of 20% of the income credited to the prisoner's account during the preceding month, each time the amount in the account exceeds \$10, until the entire filing and/or docketing fee has been paid.

I certify that the attached trust fund account statement (or institutional equivalent) is true and correct.

*Susan Will, Accountant*  
Authorized Officer of Institution

(Rev. 5/00).



Case ID MW0387

#### Menu Bar

- Offender Accounts
- Sub Account Setup
- Transactions**
- Offender Summary
- Indigent Activity
- Cable TV Management
- Account Summary

Transaction History		Account Transactions					
Actions	Date	Description	Details	Transaction Type	Amount(\$)	Available Balance(\$)	Batch #
<a href="#">View</a>	7/13/2023 10:13:52 AM	37 - Postage	First Class Mail	Debit	-0.63	-0.34	SMR-057511
<a href="#">View</a>	7/13/2023 10:13:52 AM	37 - Postage	First Class Mail	Debit	-0.63	0.29	SMR-057511
<a href="#">View</a>	7/13/2023 10:13:52 AM	37 - Postage	First Class Mail	Debit	-0.87	0.92	SMR-057511
<a href="#">View</a>	7/11/2023 9:46:09 AM	37 - Postage	First Class Mail	Debit	-0.63	1.79	SMR-057487
<a href="#">View</a>	7/11/2023 9:46:09 AM	37 - Postage	First Class Mail	Debit	-0.63	2.42	SMR-057487
<a href="#">View</a>	7/10/2023 10:33:07 AM	37 - Postage	First Class Mail	Debit	-0.63	3.05	SMR-057470
<a href="#">View</a>	7/5/2023 9:58:21 AM	37 - Postage	First Class Mail	Debit	-0.60	3.68	SMR-057426
<a href="#">View</a>	7/5/2023 9:58:21 AM	37 - Postage	First Class Mail	Debit	-0.60	4.28	SMR-057426
<a href="#">View</a>	7/3/2023 10:37:52 AM	32 - Commissary	SMR COMMISSARY FOR 07/03/2023	Debit	-1.30	4.88	SMR-057409
<a href="#">View</a>	7/3/2023 10:18:53 AM	37 - Postage	First Class Mail	Debit	-2.94	6.18	SMR-057405
<a href="#">View</a>	7/3/2023 10:18:53 AM	37 - Postage	First Class Mail	Debit	-0.24	9.12	SMR-057405
<a href="#">View</a>	7/3/2023 10:18:53 AM	37 - Postage	First Class Mail	Debit	-0.24	9.36	SMR-057405

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Purged Transactions



Case ID MW0387

Menu Bar

- Offender Accounts
- Sub Account Setup
- Transactions**
- Offender Summary
- Indigent Activity
- Cable TV Management
- Account Summary

Transaction History		Account Transactions					
Actions	Date	Description	Details	Transaction Type	Amount(\$)	Available Balance(\$)	Batch #
<a href="#">View</a>	8/28/2023 1:18:06 PM	32 - Commissary	SMR COMMISSARY FOR 08/28/2023	Debit	-7.79	6.62	SMR-057961
<a href="#">View</a>	8/28/2023 10:18:44 AM	37 - Postage	First Class Mail	Debit	-3.75	14.41	SMR-057957
	8/26/2023 6:30:36 AM	39 - Federal Filing Fees	3:22-cv-20-KAP	Debit	-6.00	18.16	SMR-057946
	8/26/2023 6:30:36 AM	50 - Act 84	CP-64-CR-0000258-2016	Debit	-7.50	24.16	SMR-057946
<a href="#">View</a>	8/26/2023 6:30:36 AM	13 - Personal Gifts	CHAMBERS , SHERON	Credit	30.00	31.66	SMR-057946
<a href="#">View</a>	8/22/2023 9:50:27 AM	32 - Commissary	SMR COMMISSARY CR FOR 08/22/2023	Credit	0.23	1.66	SMR-057899
<a href="#">View</a>	8/21/2023 10:00:52 AM	32 - Commissary	SMR COMMISSARY FOR 08/21/2023	Debit	-0.23	1.43	SMR-057886
<a href="#">View</a>	8/7/2023 11:18:00 AM	32 - Commissary	SMR COMMISSARY FOR 08/07/2023	Debit	-6.75	1.66	SMR-057750
<a href="#">View</a>	8/4/2023 10:22:31 AM	37 - Postage	First Class Mail	Debit	-7.75	8.41	SMR-057718
	8/4/2023 6:30:31 AM	39 - Federal Filing Fees	3:22-cv-20-KAP	Debit	-6.00	16.16	SMR-057716
	8/4/2023 6:30:31 AM	50 - Act 84	CP-64-CR-0000258-2016	Debit	-7.50	22.16	SMR-057716
<a href="#">View</a>	8/4/2023 6:30:31 AM	13 - Personal Gifts	CHAMBERS , SHERON	Credit	30.00	29.66	SMR-057716

1 of 64 Go To 1

Purged Transactions

**Integrated Offender Case Management System**

11/9/2023 7:10:51 AM

**Monthly Account Statement**

From Date: 10/01/2023

To Date: 11/09/2023

Housing	Case ID	Offender Name	Location	
C-B-1011-01	MW0387	BROWN,NOEL	SOMERSET	
Batch#	Txn Date	Txn Description	Txn Amount(\$)	Balance After Transaction(\$)
SMR-058302	10/02/2023	32 - Commissary (SMR COMMISSARY FOR 10/02/2023)	-28.39	26.79
SMR-058307	10/03/2023	36 - Library Copies (COPIES)	-0.70	26.09
SMR-058308	10/03/2023	37 - Postage (First Class Mail)	-1.20	24.89
SMR-058380	10/10/2023	37 - Postage (First Class Mail)	-1.44	23.45
SMR-058384	10/10/2023	32 - Commissary (SMR COMMISSARY FOR 10/10/2023)	-19.31	4.14
SMR-058443	10/16/2023	32 - Commissary (SMR COMMISSARY FOR 10/16/2023)	-2.08	2.06
SMR-058452	10/17/2023	37 - Postage (First Class Mail)	-2.06	0.00
SMR-058484	10/19/2023	36 - Library Copies (COPIES)	-0.40	-0.40
SMR-058492	10/20/2023	13 - Personal Gifts (CHAMBERS , SHERON)	+25.00	24.60
SMR-058492	10/20/2023	50 - Act 84 (CP-64-CR-0000258-2016)	-6.25	18.35
SMR-058492	10/20/2023	39 - Federal Filing Fees (3:22-cv-20-KAP)	-5.00	13.35
SMR-058498	10/20/2023	37 - Postage (First Class Mail)	-0.63	12.72
SMR-058498	10/20/2023	37 - Postage (First Class Mail)	-1.11	11.61
SMR-058523	10/23/2023	32 - Commissary (SMR COMMISSARY FOR 10/23/2023)	-5.33	6.28
SMR-058595	10/30/2023	32 - Commissary (SMR COMMISSARY FOR 10/30/2023)	-2.08	4.20
SMR-058630	11/01/2023	37 - Postage (First Class Mail)	-0.24	3.96
SMR-058669	11/05/2023	13 - Personal Gifts (CHAMBERS , SHERON)	+20.00	23.96
SMR-058669	11/05/2023	50 - Act 84 (CP-64-CR-0000258-2016)	-5.00	18.96
SMR-058669	11/05/2023	39 - Federal Filing Fees (3:22-cv-20-KAP)	-4.00	14.96
SMR-058685	11/06/2023	32 - Commissary (SMR COMMISSARY FOR 11/06/2023)	-9.05	5.91
SMR-058706	11/07/2023	32 - Commissary (SMR COMMISSARY CR FOR 11/07/2023)	+4.77	10.68
Current, Escrow, & Available Balances are as of 11/9/2023 7:10:51 AM				
Current Balance		10.68		
Escrow Balance		0.00		
Available Balance		10.68		