

23-5990
No. _____

FILED
SEP 29 2023

OFFICE OF THE CLERK
SUPREME COURT, U.S.

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

KIRK A SIMMONS – PETITIONER

vs.

UNITED STATES OF AMERICA – RESPONDENT

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):

U.S. District Court, District of Delaware

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

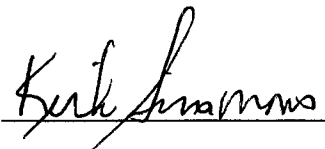
☒ Petitioner's affidavit or declaration in support of this motion is attached hereto.

☐ 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 (per Rule 39.1).



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

I, KIRK SIMMONS, 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	\$ <u>0</u>	\$ <u>3,998</u>	\$ <u>0</u>	\$ <u>3,998</u>
Self-employment	\$ <u>442</u>	\$ <u>0</u>	\$ <u>800</u>	\$ <u>0</u>
Income from real property (such as rental income)	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Interest and dividends	\$ <u>74</u>	\$ <u>74</u>	\$ <u>74</u>	\$ <u>74</u>
Gifts	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Alimony	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Child Support	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>4,990</u>	\$ <u>0</u>	\$ <u>4,990</u>	\$ <u>0</u>
Disability (such as social security, insurance payments)	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Unemployment payments	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Public-assistance (such as welfare)	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Other (specify): _____	\$ _____	\$ _____	\$ _____	\$ _____
Total monthly income:	\$ <u>5,506</u>	\$ <u>4,072</u>	\$ <u>5,864</u>	\$ <u>4,072</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
Retired Since 2013			\$
			\$
			\$

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
Wrightsville Beach Landscaping	P.O. Box 805 Wrightsville Beach, NC 28480	Present 2015 - Present	\$ 3,998 \$ 3,695 \$

4. How much cash do you and your spouse have? \$ 100
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
Checking (Joint)	\$ 2567	\$ 2567
Savings (Joint)	\$ 734	\$ 734
Savings (Joint)	\$ 28,156	\$ 28,156

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

☒ Home
Value \$ 419,000

☐ Other real estate
Value

☒ Motor Vehicle #1
Year, make & model 2022 VW Taos
Value \$ 18,000

☒ Motor Vehicle #2
Year, make & model 2017 Ford Escape
Value \$ 9,000

☐ 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)

\$ 0

\$ 0

Are real estate taxes included? ☐ Yes ☒ No

Is property insurance included? ☐ Yes ☒ No

Utilities (electricity, heating fuel,
water, sewer, and telephone)

\$ 309

\$ 309

Home maintenance (repairs and upkeep)

\$ 678

\$ 678

Food

\$ 577

\$ 577

Clothing

\$ 40

\$ 150

Laundry and dry-cleaning

\$ 0

\$ 0

Medical and dental expenses

\$ 140

\$ 93

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ <u>50</u>	\$ <u>150</u>
Recreation, entertainment, newspapers, magazines, etc.	\$ <u>113</u>	\$ <u>113</u>
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ <u>120</u>	\$ <u>120</u>
Life	\$ <u>0</u>	\$ <u>0</u>
Health	\$ <u>204</u>	\$ <u>165</u>
Motor Vehicle	\$ <u>50</u>	\$ <u>50</u>
Other: _____	\$ _____	\$ _____
Taxes (not deducted from wages or included in mortgage payments)		
(specify): <u>Fed tax on retirement</u>	\$ <u>353</u>	\$ <u>142</u>
<u>End of year state tax, County tax</u>		
Installment payments		
Motor Vehicle	\$ <u>0</u>	\$ <u>0</u>
Credit card(s)	\$ <u>0</u>	\$ <u>66</u>
Department store(s)	\$ <u>0</u>	\$ <u>0</u>
Other: _____	\$ _____	\$ _____
Alimony, maintenance, and support paid to others	\$ <u>0</u>	\$ <u>0</u>
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ _____	\$ _____
Other (specify): <u>Charity</u>	\$ <u>133</u>	\$ <u>133</u>
Total monthly expenses:	\$ <u>2,767</u>	\$ <u>2,746</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? _____

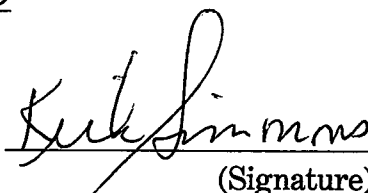
If yes, state the person's name, address, and telephone number:

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

Our home's roof is nearing its useful life and will need replacing later this year or early next year (\$20,000 estimate), our fence needs replacing after several hurricanes (\$6,000 estimate).

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

Executed on: November 6, 2023


(Signature)