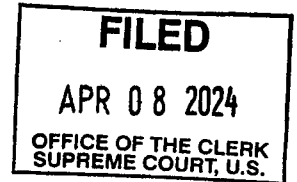


No. 23-7265

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



Nicholas Stewart Hines — PETITIONER
(Your Name)

VS.

State of South Dakota — 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):

In this Court. Case No. 22-6239, 21-5695,
21-5190 (all appeals from § 1983 action 4:19-CV-04108-LLP)

☐ 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.

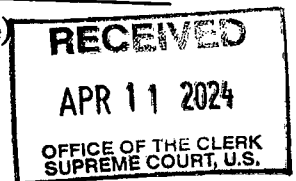
☐ Petitioner's affidavit or declaration is **not** attached because the court below appointed counsel in the current proceeding, and:

☐ The appointment was made under the following provision of law: _____, or

☐ a copy of the order of appointment is appended.

Nick Hines

(Signature)



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

I, Nicholas Stewart Hines, 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>50⁰⁰</u>	\$ <u>NA</u>	\$ <u>50⁰⁰</u>	\$ <u>NA</u>
Self-employment	\$ <u>0</u>	\$ <u>NA</u>	\$ <u>0</u>	\$ <u>NA</u>
Income from real property (such as rental income)	\$ <u>0</u>	\$ <u>NA</u>	\$ <u>0</u>	\$ <u>NA</u>
Interest and dividends	\$ <u>0</u>	\$ <u>NA</u>	\$ <u>0</u>	\$ <u>NA</u>
Gifts	\$ <u>25⁰⁰</u>	\$ <u>NA</u>	\$ <u>25⁰⁰</u>	\$ <u>NA</u>
Alimony	\$ <u>0</u>	\$ <u>NA</u>	\$ <u>0</u>	\$ <u>NA</u>
Child Support	\$ <u>0</u>	\$ <u>NA</u>	\$ <u>0</u>	\$ <u>NA</u>
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>0</u>	\$ <u>NA</u>	\$ <u>0</u>	\$ <u>NA</u>
Disability (such as social security, insurance payments)	\$ <u>0</u>	\$ <u>NA</u>	\$ <u>0</u>	\$ <u>NA</u>
Unemployment payments	\$ <u>0</u>	\$ <u>NA</u>	\$ <u>0</u>	\$ <u>NA</u>
Public-assistance (such as welfare)	\$ <u>0</u>	\$ <u>NA</u>	\$ <u>0</u>	\$ <u>NA</u>
Other (specify): <u>NA</u>	\$ <u>0</u>	\$ <u>NA</u>	\$ <u>0</u>	\$ <u>NA</u>
Total monthly income:	\$ <u>75⁰⁰</u>	\$ <u>NA</u>	\$ <u>75⁰⁰</u>	\$ <u>NA</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
SDDOC	1412 Wood St Springfield SD 57062	March 2023 - present	\$ 50.00
			\$
			\$

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
NA	NA	NA	\$ NA
			\$
			\$

4. How much cash do you and your spouse have? \$ NA / \$ 0 * Incarcerated 13 years
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
NA	\$ NA	\$ NA
	\$ NA	\$ NA
	\$	\$

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

☐ Home
Value NA

☐ Other real estate
Value NA

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

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

☐ Other assets
Description NA
Value NA

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

NA

\$ NA

\$ NA

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

NA

NA

NA

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

\$ NA

Are real estate taxes included? ☐ Yes ☐ No

Is property insurance included? ☐ Yes ☐ No

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

\$ 0

\$ NA

Home maintenance (repairs and upkeep)

\$ 0

\$ NA

Food

\$ 50.00

\$ NA

Clothing

\$ 5-10 est.*

\$ NA

Laundry and dry-cleaning

\$ 0

\$ NA

Medical and dental expenses

\$ 5-10 est.*

\$ NA

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ <u>0</u>	\$ <u>NA</u>
Recreation, entertainment, newspapers, magazines, etc.	\$ <u>5-10⁰⁰ est*</u>	\$ <u>NA</u>
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ <u>0</u>	\$ <u>NA</u>
Life	\$ <u>0</u>	\$ <u>NA</u>
Health	\$ <u>0</u>	\$ <u>NA</u>
Motor Vehicle	\$ <u>0</u>	\$ <u>NA</u>
Other: _____	\$ <u>0</u>	\$ <u>NA</u>
Taxes (not deducted from wages or included in mortgage payments)		
(specify): _____	\$ <u>0</u>	\$ <u>NA</u>
Installment payments		
Motor Vehicle	\$ <u>0</u>	\$ <u>NA</u>
Credit card(s)	\$ <u>0</u>	\$ <u>NA</u>
Department store(s)	\$ <u>0</u>	\$ <u>NA</u>
Other: _____	\$ <u>0</u>	\$ <u>NA</u>
Alimony, maintenance, and support paid to others	\$ <u>0</u>	\$ <u>NA</u>
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ <u>0</u>	\$ <u>NA</u>
Other (specify): <u>Legal / Litigation Expenses</u>	\$ <u>5-20⁰⁰ est*</u>	\$ <u>NA</u>
Total monthly expenses:	\$ <u>75⁰⁰ est*</u>	\$ <u>NA</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? - NA -

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

- NA -

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? - NA -

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

- NA -

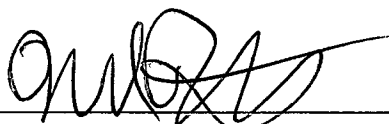
12. Provide any other information that will help explain why you cannot pay the costs of this case.

I owe excessive amounts of Court-Ordered costs \$700,000.00 est.
That I have to pay for expenses related to this litigation
ie Copies, Supplies, etc. Additionally, I am simultaneously incurring
similar litigation expenses, as I am proactively drafting/copying documents
for a State habeas proceeding in the event certiorari is denied.
I declare under penalty of perjury that the foregoing is true and correct.

(See Attached)

Executed on: April 2nd, 2024

6 pages


(Signature)

STATE OF SOUTH DAKOTA)

IN CIRCUIT COURT

COUNTY OF YANKTON)

FIRST JUDICIAL CIRCUIT

BONNIE J. KNOLL, Personal
Representative of the Estate of
BRIANNA MARIE KNOLL,
Plaintiff,

CIV. No. 13-135

vs.

NICHOLAS STEWART HINES,
Defendants.

STIPULATION
AND
FINAL JUDGMENT

FILED
MAY 15 2014
Jody L. Johnson
Yankton County Clerk of Courts
1st Judicial Circuit Court of South Dakota

STIPULATION

Plaintiff Bonnie J. Knoll, personal representative of the estate of Brianna Marie Knoll, and defendant Nicholas Stewart Hines stipulate and agree as follows:

1. The plaintiff and defendant wish to compromise and settle this wrongful death/survival claim action in the total sum of Six Hundred Thousand and no/100 (\$600,000.00) Dollars for all damages of every kind and nature associated with the death and/or injury of Brianna Marie Knoll.
2. On or about March 8, 2012, Defendant, Nicholas Stewart Hines, pled guilty to the crime of Homicide as Manslaughter in the First Degree (SDCL 22-16-15(3); SDCL 22-16-1) arising out of the same facts and circumstances that give rise to this wrongful death/survivor claim action.
3. The parties to this stipulation agree that defendant's debt to plaintiff herein is for judgment in wrongful death or personal injury resulting from defendant's acts or omissions while intoxicated by alcohol and under circumstances that would not allow discharge of debt or judgment pursuant to 11 U.S.C. § 523 et seq. and defendant's

acknowledgement of the non-dischargeable nature of the debt and judgment constitutes consideration for this stipulation.

4. It is further agreed by the parties that final judgment may be entered pursuant to this stipulation at the convenience of the court without notice, jury and court trial being in all respects waived.
5. It is further agreed by the parties to this stipulation that the parties pay their respective attorney's fees and costs.

BONNIE J. KNOLL, Personal
Representative of the Estate of
BRIANNA MARIE KNOLL

Date: 5-1-14

Bonnie J. Knoll
Bonnie J. Knoll, Personal Representative

Date: 5-1-14

Timothy L. James
Timothy L. James
Attorney for Plaintiff

Date: 4/25/14

Nicholas Stewart Hines
Nicholas Stewart Hines, Defendant

Date: 4/29/14

James E. McCulloch
James E. McCulloch
Attorney for Defendant

FINAL JUDGMENT

FILED

MAY 15 2014

Jody L. Johnson
Jody L. Johnson
Yankton County Clerk of Courts
1st Judicial Circuit Court of South Dakota

The court, having reviewed the above and foregoing stipulation of the parties herein and accepts and incorporates the same, and upon and due cause and consideration, it is

ORDERED AND ADJUDGED that Plaintiff, Bonnie J. Knoll, Personal Representative of the Estate of Brianna Marie Knoll, is granted a judgment against Defendant, Nicholas Stewart

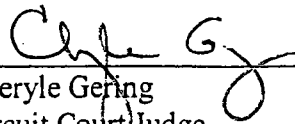
Hines, in the sum of \$600,000.00 plus post judgment interest at the highest rate allowed by law.

And it is,

FURTHER ORDERED AND ADJUDGED that the respective parties herein pay their
respective attorney's fees and costs.

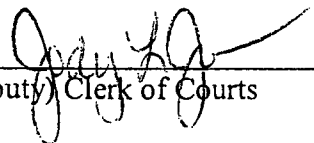
Dated this 13th day of May, 2014.

BY THE COURT:



Cheryle Gering
Circuit Court Judge

ATTEST:



(Deputy) Clerk of Courts

Case Transactions Summary for HINES, NICHOLAS STEWART

Case Number: 66C11000216A0

Fee Category	Charges	Payments	Credits	Balance	Disb	Escrow
Court Appointed Attorney Fees	6,658.40	630.93	0.00	6,027.47	630.93	0.00
Court Appointed Attorney Fee	6,658.40	630.93	0.00	6,027.47	630.93	0.00
Court Automation Surcharge	123.00	61.50	0.00	61.50	61.50	0.00
Court Automation Surcharge	123.00	61.50	0.00	61.50	61.50	0.00
Court Costs	16,929.93	0.00	0.00	16,929.93	0.00	0.00
Court Costs	16,929.93	0.00	0.00	16,929.93	0.00	0.00
Fines and Penalties - State, County or City	0.00	0.00	0.00	0.00	0.00	0.00
Fines - State	0.00	0.00	0.00	0.00	0.00	0.00
Liquidated Costs	80.00	71.41	0.00	8.59	71.41	0.00
911 Telecommunicator Training Fee	2.00	1.79	0.00	0.21	1.79	0.00
Abused and Neglected Child Defense Fee	2.00	1.78	0.00	0.22	1.78	0.00
Court Appointed Attorney and Public Defender Fee	12.00	10.71	0.00	1.29	10.71	0.00
Court Appointed Special Advocates Fee	4.00	3.57	0.00	0.43	3.57	0.00
Law Enforcement Officer's Training Fee	60.00	53.56	0.00	6.44	53.56	0.00
Restitution	112.50	112.50	0.00	0.00	112.50	0.00
Restitution Felony	112.50	112.50	0.00	0.00	112.50	0.00
Supreme Court Appeal	150.00	0.00	150.00	0.00	0.00	0.00
Appeal - Supreme Court	50.00	0.00	50.00	0.00	0.00	0.00
Pass Through - Supreme Court Appeal (\$100)	100.00	0.00	100.00	0.00	0.00	0.00
Victim's Compensation	5.00	2.50	0.00	2.50	2.50	0.00
Victim Compensation Surcharge	5.00	2.50	0.00	2.50	2.50	0.00
Totals	24,058.83	878.84	150.00	23,029.99	878.84	0.00
Indirect Total	0.00					

CUSTOMER #	NAME	MAILING ADDRESS	SHIP TO ADDRESS		
01-009730	HINES, NICHOLAS	2704 E MAIN STREET VERMILLION, SD, 57069-0000	MIKE DURFEE STATE PRISON INMATE #20596 1412 WOOD ST SPRINGFIELD, SD, 57062-0000	STATUS: BALANCE: BALANCE FORWARD: BALANCE PENDING:	ACTIVE 56

DETAILS	EXCEPTIONS	DISCOUNT TERMS	DRAFT INFORMATION
CUSTOMER SORT: HINES	CALCULATE INTEREST: Y	PERCENTAGE: 0.00	DRAFT THIS CUSTOMER: N
CUSTOMER CLASS: OC-OUT OF COUNTY	CALCULATE INTEREST	TYPE:	BANK CODE:
CYCLE: MTHLY-MONTHLY	ON INTEREST: Y	DAYS: 0	BANK ACCOUNT:
STATEMENT TYPE: OPEN ITEM	TAXABLE: N		ACCOUNT TYPE:
CREDIT LIMIT: 0.00			PRENOTE:
			EFFECTIVE DATE:

CUSTOMER AGING

STATISTICAL DATA

		YEAR TO DATE	PRIOR YEAR(S)	
CURRENT:	0.00			
30-59 DAYS PAST DUE:	0.00	SALES: 57,527.34	0.00	57
60-89 DAYS PAST DUE:	0.00	TAX: 0.00	0.00	
90-119 DAYS PAST DUE:	27,273.05	PAYMENTS: 630.93CR	0.00	
OVER 120 DAYS PAST DUE:	29,623.36	CR MEMOS: 0.00	0.00	
TOTAL DUE:	56,896.41	DB MEMOS: 0.00	0.00	
		DISCOUNTS: 0.00	0.00	
		ADJUSTMENTS: 0.00	0.00	
		FINANCE CHARGES: 0.00	0.00	

ITEM	DATE	DUE DATE	PACKET	TYPE	ID	DESCRIPTION	TAX	GROSS	ITEM
06/07/2012	08/02/2012	03552	I	201208027518	CONFINEMENT FEE	0.00	4,090.00	4,	
06/07/2012	08/02/2012	03552	I	201208027519	WARRANT FEES	0.00	25.00		
05/23/2013	06/22/2013	04225	I	201305233370	LACROIX LAW OFFICE	0.00	5,284.14	4,	
11/14/2014	11/14/2014	05697	P	201412015220	COC PAY 278932	0.00	30.50CR		
01/12/2015	01/12/2015	05868	P	201502056879	COC PAY 282038	0.00	9.70CR		
09/08/2015	09/08/2015	06434	P	201509152582	COC PAY 304761	0.00	44.45CR		
07/19/2018	07/19/2018	08659	P	201807248083	COC PAY 406170	0.00	9.80CR		
06/18/2020	06/18/2020	09871	P	202006194963	COC PAY 475161	0.00	10.00CR		
09/21/2020	09/21/2020	10083	P	202011246645	COC PAY 481826	0.00	7.13CR		
10/21/2020	10/21/2020	10084	P	202011246656	COC PAY 484987	0.00	15.85CR		
11/17/2020	11/17/2020	10087	P	202011256706	COC PAY 490347	0.00	18.50CR		
01/15/2021	01/15/2021	10236	P	202102019905	COC PAY 493468	0.00	480.00CR		
02/05/2021	04/05/2021	10311	I	202103031552	CONFINEMENT FEE	0.00	4,090.00	4,	
02/05/2021	04/05/2021	10311	I	202103031553	WARRANT FEES	0.00	25.00		
03/10/2021	03/10/2021	10327	P	202103151726	COC PAY 497830	0.00	5.00CR		
07/19/2021	11/19/2021	10558	I	202110223579	OLIVIER MILES HOLTZ,	0.00	13,875.80	13,	
12/07/2021	05/13/2022	10789	I	202204124595	MEDICAL JAIL	0.00	153.98		
02/01/2022	03/03/2022	10969	I	202208176228	MEDICAL JAIL	0.00	153.98		
02/15/2022	03/17/2022	10973	I	202208176252	MEDICAL JAIL	0.00	153.98		
04/19/2022	05/19/2022	10976	I	202208186268	MEDICAL JAIL	0.00	153.98		
06/23/2022	07/23/2022	11072	I	202211026915	MEDICAL JAIL	0.00	265.97		
08/03/2022	09/02/2022	11082	I	202211106949	MEDICAL JAIL	0.00	97.94		
09/01/2022	10/01/2022	11097	I	202211217077	MEDICAL JAIL	0.00	101.94		
10/13/2022	11/12/2022	11118	I	202212057151	MEDICAL JAIL	0.00	49.96		

ITEM	DATE	DUE DATE	PACKET	TYPE	ID	DESCRIPTION	TAX	GROSS	ITEM
10/15/2022	11/14/2022	11147	I		202212287376	MEDICAL JAIL	0.00	265.84	
10/20/2022	11/19/2022	11075	I		202211036922	MEDICAL JAIL	0.00	265.84	
11/08/2022	12/08/2022	11162	I		202301107448	MEDICAL JAIL	0.00	15.98	
11/17/2022	12/17/2022	11150	I		202212297388	MEDICAL JAIL	0.00	273.11	
12/13/2022	01/12/2023	11179	I		202301237580	MEDICAL JAIL	0.00	273.11	
12/14/2022	01/13/2023	11185	I		202301257619	MEDICAL JAIL	0.00	49.96	
01/10/2023	02/09/2023	11241	I		202303078036	MEDICAL JAIL	0.00	49.96	
01/30/2023	03/17/2023	11237	I		202303068002	MEDICAL JAIL	0.00	314.54	
02/07/2023	05/01/2023	11294	I		202304148309	MEDICAL JAIL	0.00	144.36	
02/27/2023	04/15/2023	11263	I		202303178156	MEDICAL JAIL	0.00	79.92	
04/18/2023	08/25/2023	11431	I		202307269083	LEGAL ASSISTANCE	0.00	12,317.50	12,
04/18/2023	08/25/2023	11431	I		202307269084	LEGAL ASSISTANCE	0.00	14,955.55	14,