

No
23-7393
IN THE
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED
MAY 02 2024
OFFICE OF THE CLERK

GREGORY SHAWN MERCER,

Petitioner,

versus

COMMONWEALTH OF VIRGINIA & COUNTY OF FAIRFAX

Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO
THE SUPREME COURT OF VIRGINIA

SCOTUS MOTION FOR LEAVE OF COURT
TO PROCEED *IN FORMA PAUPERIS*

SCOTUS RULE 29 CERTIFICATE OF SERVICE (at the End)
(28 U.S.C. §2403(b) MAY APPLY)

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Gregory Shawn Mercer, *pro se*
3114 Borge Street
Oakton, Virginia 22124
202-431-9401
gregorysm Mercer@gmail.com

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**SCOTUS MOTION FOR LEAVE OF COURT
TO PROCEED IN *FORMA PAUPERIS***

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2023 OF THE CLERK

Petitioner has been previously granted leave to proceed *in forma pauperis* in this Supreme Court of the United States (herein “SCOTUS”) between 3/19/2023 through 1/16/2024 when his 3/19/2023 “Petition for Extraordinary Writ of Mandamus to the Chief Judge of the Supreme Court of Virginia, S. Bernard Goodwyn” was DENIED during and following the 11/17/2023 SCOTUS Conference then his 12/20/2023 “SCOTUS Petition for Rehearing” was DENIED during and following the 1/12/2024 SCOTUS Conference.

Petitioner’s 28 U.S.C. §1746 Declaration in support of this Motion for Leave of Court to Proceed *In Forma Pauperis* is as follows:

**28 U.S.C. §1746 DECLARATION IN SUPPORT OF MOTION
FOR LEAVE OF COURT TO PROCEED *IN FORMA PAUPERIS***

I, Gregory Shawn Mercer, am the Petitioner in the above-entitled case. In support of my motion for leave of Court to proceed *in forma pauperis*, I state that because of my temporary poverty due to unemployment while continuing to repair my townhouse after a squirrel infestation (See SCOTUS Case No. 23-5643 Motion to Proceed *In Forma Pauperis*) and while litigating a Custody and Visitation matter concerning my three-year-old autistic daughter, I am unable to pay the costs of this SCOTUS Rule 13.5 & 14 “Petition for Writ of Certiorari to the Supreme Court of Virginia” or to give security therefor. I believe I am entitled to redress.

I filed a 4/17/2024 “Application to the Circuit Justice for the Supreme Court of Virginia (John G. Roberts, Jr.) for a 60-Day Extension to File (SCOTUS Rule 13.5).” My daughter V. J. M.-W. (DOB 2021) was diagnosed with “Autism Spectrum Disorder with accompanying language impairment, requiring very substantial support (level 3) F84.0” in an 11/29/2023 “Multidisciplinary Evaluation.” Developmental Pediatrician Mary Elisabeth A. Calabrese, DO, MHP together with Speech-Language Pathologist Colleen Morgan, MA, CCC-SLP wrote an 11/29/2023 “AMB Referral to Behavioral Health” stating “ABA Therapy. Evaluate and treat. Recommend at least 30 hours/wk if not in preschool.” Applied Behavior Analysis (herein “ABA”) Therapy is available through the Fairfax County Public School (hereafter “FCPS”) Preschool Autism Classroom (hereafter “PAC”) and through At-Home ABA Therapy Providers like Autism Rehabilitation Center (hereafter “ARC”).

However, the mother of V. J. M.-W. (DOB 2021) and Petitioner's Other Dependent (Defined by "IRS Form 1040 Instructions") has experienced a decade of Foster Care starting at the age of two-years-old learning not to trust other people nor institutions. After Petitioner registered V. J. M.-W. (DOB 2021) for FCPS PAC and prepared for an "ABA Evaluation" at ARC, Petitioner's Other Dependent refused to allow Petitioner's daughter to enroll in FCPS PAC nor undergo the "ABA Evaluation" at ARC. Instead, Petitioner's Other Dependent arranged Private Speech Therapy twice a week in 35-minute sessions and Private Occupational Therapy once a week in a 1-hour session totaling 2 hours and 10 minutes per week. As a result of Petitioner's Other Dependent's failure to enroll V. J. M.-W. (DOB 2021) in 30 hour a week of ABA Therapy, V. J. M.-W. (DOB 2021) has developed a significant speech delay observed by Guardian Ad Litem Darrin J. Behr on 2/24/2023. Petitioner's Other Dependent notified Petitioner and three Fairfax County Infant and Toddler Connection employees on 1/5/2024 that she had plans to permanently move back to West Virginia with V. J. M.-W. (DOB 2021) to return to her job working as a West Virginia Social Worker. Autism Parenting Magazine ranks West Virginia as the least supportive State of all 50 States for raising a child with autism (autismparentingmagazine.com).

On 2/21/2024, Petitioner (*pro se*) filed in the Fairfax County Juvenile and Domestic Relations District Court (hereafter "**Fairfax J&DR**") a one-page Custody Petition and a one-page Visitation Petition. Petitioner seeks Sole Legal Custody and Joint Physical Custody while his Other Dependent and V. J. M.-W. (DOB 2021) continue to live in Petitioner's townhouse now squirrel-free as verified by the Guardian Ad Litem's 2/24/2024 Inspection following Petitioner's eight months of townhouse repairs of 12 squirrel holes with a rewired and reinsulated Attic. Petitioner's Other Dependent is very protective of V. J. M.-W. (DOB 2021) and only allows Petitioner between 8:00 pm and 10:00 pm every day to visit with V. J. M.-W. (DOB 2021). Petitioner seeks unfettered visitation with V. J. M.-W. (DOB 2021) every other day. Petitioner, an Activist and a Truck Driver, cannot resume Over-The-Road (hereafter "**OTR**") Trucking until at least after the conclusion of his Fairfax J&DR 5/3/2024 "Status Hearing" and Fairfax J&DR 5/22/2024 "Motion's Hearing" on his 4/16/2024 "Motion to Update: Petitions for Sole Paternal Legal Custody and Visitation" which 28-page Motion includes all the relevant facts of Petitioner's Case limited to enrolling V. J. M.-W. (DOB 2021) in FCPS PAC and starting her services with ARC. In the meantime, Petitioner is providing daycare for his 10-month-old grandson, has Itemized his Deductions for 2023, has filed his Federal and State Taxes, has requested a SCOTUS Rule 13.5 extension of his 5/2/2024 deadline, and has plans to move household clutter to storage. Petitioner is encouraging his Other Dependent to seek Individual Therapy to no avail so far.

1. For both myself and my Other Dependent, here is an estimate of average amount of money received [and expected] from the following sources during the past 12 months adjusted to monthly figures before taxes, deductions, or otherwise:

	<u>Past 12 Months:</u> Petitioner	Other Dependent	<u>Next Month:</u> Petitioner	Other Dependent
Employment (since 4/11/2023)	\$0.00	\$0.00	\$?..?	\$0.00
Self-Employment	\$0.00	\$0.00	\$0.00	\$0.00
Income from real property (such as rental income)	\$0.00	\$0.00	\$0.00	\$0.00
Interest and dividends	\$0.00	\$0.00	\$0.00	\$0.00
Gifts	\$0.00	\$0.00	\$0.00	\$0.00
Alimony	\$6,400.00	\$0.00	\$6,400.00*	\$0.00
Child Support	(\$100.00)	\$0.00	(\$100.00)	\$0.00
Retirement (such as social security, pensions, annuities, insurance)	\$0.00	\$0.00	\$0.00	\$0.00
Disability (such as social Security, insurance pmt's)	\$0.00	\$0.00	\$0.00	\$0.00
Unemployment payments	\$0.00	\$0.00	\$0.00	\$0.00
Public-assistance (such as welfare)	\$0.00	\$0.00	\$0.00	\$0.00
Other: _____	\$0.00	\$0.00	\$0.00	\$0.00
Total monthly income:	\$6,300.00	\$0.00	\$6,300.00	\$0.00

* - By agreement with ex-wife, alimony will reduce to \$3,100.00 starting 6/1/2024

2. My employment history for the past two years, most recent first is:

Employer	Address	Dates	Gross Monthly
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Contract Freighters, Inc.	4701 East 32nd St. Joplin, MO 64804	10/31/22 to 4/11/23	2022 - \$2,073.84 2023 - \$3,125.50
Western Express, Inc.	7135 Centennial Pl. Nashville, TN 37209	9/7/22 to 10/4/22	2022 - \$870.43
United Parcel Service, Inc.	4455 Stonecroft Blvd. Chantilly, VA 20151	7/2/21 to 8/6/22	2021 - \$3,503.78 2022 - \$3062.26
New Dad & Activism	3114 Borge St. Oakton, VA 22124	3/28/21 to 7/1/21	2021 - \$0.00

3. My Other Dependent has been a Stay-at-Home Mom since giving birth to our 11/29/2023-diagnosed autistic daughter now three-years-old (DOB 3/28/2021). My Other Dependent has no income so this section is (Not Applicable).

4. My Other Dependent and I have almost no cash. I have a checking account currently with **\$1,153.55** after a \$3,300 advance on Alimony for May of 2024. I deposit money from my checking account into my Other Dependent's Checking Account as needed. My Other Dependent has approximately **\$40.00** in her Checking Account (4/29/2024). The remaining Principle on my mortgage is **\$201,840.70**. My 2009 car needs an exhaust system with Catalytic Converter. My townhouse needs rear roof repairs soon in order to keep the squirrels out of my Attic. My Other Dependent has no savings nor Retirement Accounts owing more than **\$15,000** in student loans which she refuses to quantify for me asserting it is her business:

Type of Account	Petitioner Amount	Other Dependent Amount
Checking	\$1,153.55	\$40.00
Fidelity IRA	\$236,544.68	\$0.00
Schwab IRA	\$18,397.95	\$0.00
Janus Roth IRA	\$4,928.39	\$0.00

5. I own my townhouse at 3114 Borge Street, Oakton, Virginia, 22124. Fairfax County Government assesses my townhouse value at **\$604,350**. My townhouse is in need of mainly internal repairs as I just completed mainly external repairs. Repairs for 2023 included: rebuilding the water-damaged Front Bay

Window, replacing entire Side Rake Board due to age and a squirrel hole, repairing squirrel holes below all Four Townhouse Corners with a fifth hole above one Corner, repairing squirrel hole in Rear Dining Room Window Sill, repairing three squirrel holes in Front Roof Decking & Front Facia Board behind Front Gutter, repairing three squirrel holes in Rear Roof Soffit, repairing drywall in Rear Bedrooms due to squirrels, rewiring Attic where squirrels ate through front and rear wires, blowing in \$1,700 of insulation into Attic. Future repairs for 2024 includes: rebuilding Rear Roof with fortification against any future squirrel invasion, replace Roof Shingles on the whole roof (greater than 20-years old), Windows Chalk where 8/23/2011 earthquake damage is still evident; replace Broken Window Pane currently plexiglass beside front entrance. I do not own any other real estate (**Not Applicable**). I own a 2009 Toyota Camry Hybrid (VIN# - 4T1BB46K39U089938) with 397,725 miles worth **SALVAGE \$500** and my Other Dependent owns a 2006 Chevrolet Equinox LT (VIN# - 2CNDL63F266202166) with approximately 181,100 miles worth **SALVAGE \$500**. My other Dependent and I do not own any other assets (**Not Applicable**).

6. There is only one person, business, or organization owing myself or my Other Dependent money being the Internal Revenue Service which hopefully will deposit a refund of \$1,192.93 for 2023 Form 1040 into my checking account above.

7. My Other Dependent and I have an 11/29/2023-diagnosed autistic three-year-old daughter whose initials are “VJM-W” and I have two other grown daughters (one with my grandson “VIKM” now 10-months-old for whom I periodically provide daycare and which daughter is pregnant with a second grandson):

Name	Relationship	Age
VJM-W	Daughter	3 years, 1 months
VIKM	Grandson	10 months

8. This is a fairly accurate estimate of the average monthly expenses based on itemization of my Discover Credit Card statements and my Bank of America Debit Card statements from 5/31/2023 to 12/10/2023 (Petitioner is itemizing 12/11/2023 to 5/1/2024 currently) where my Other Dependent’s Amazon Marketplace purchases were too general to be itemized so these purchases were equally divided into five reasonably-justifiable Other Dependent categories being: 1) Food; 2) Clothing; 3) Medical and dental expenses; 4) Recreation, entertainment, newspapers, magazines, etc.; and 5) ..., toys, & formula (Diapers were itemized):

Petitioner Other Dependent

Home-mortgage payment (includes real estate taxes and property insurance*)	\$3,206.76	\$0.00
Utilities (electricity, water, telephone, internet)*	\$335.34	\$55.00
Home maintenance*	\$350.56	\$0.00
Food*	\$867.15	\$976.64
Clothing*	\$48.09	\$109.48
Laundry and dry cleaning*	\$2.53	\$2.53
Medical and dental expenses	\$863.60	\$209.48
Transportation (two motor vehicles fully owned)*	\$537.38	\$100.00
Recreation, entertainment, newspaper, magazines, etc.*	\$62.30	\$109.48

Insurance (not deducted from wages or
included in mortgage payments):

Homeowner's insurance	\$0.00	\$0.00
Life insurance	\$0.00	\$0.00
Health insurance (Vision, Dental, COBRA)	\$44.65	\$0.00
Motor Vehicle insurance*	\$139.57	\$111.31

Taxes (not deducted from wages
or included in mortgage payments):

(specify): <u>Personal Property Taxes*</u>	\$11.69	\$5.73
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Installment payments:

Motor Vehicle	\$0.00	\$0.00
Credit Cards (\$4,477.55)	\$90.00	\$0.00
Department store(s)	\$0.00	\$0.00
Other: <u>Loans – Tori; Mom; Anne (\$25,500)</u>	\$250.00	\$0.00

Alimony, maintenance, and support paid to others	\$0.00	\$0.00
Regular expenses for operation of business, profession, or farm (attach detailed statement**):		
Copying, Printing, & Mailing*	\$349.48	\$0.00
Commissions & Fees*	\$88.53	\$0.00
Freight Agent On-Line Education*	\$0.00	\$166.25
Other (specify): <u>Home-Owner Association Dues*</u>	\$111.67	\$0.00
Other (specify): <u>Diapers, Toys, & Formula</u>	\$0.00	\$226.90
Other (specify): <u>Unfair VA Tax Interest</u>	\$10.05	\$0.00
Total Monthly Expenses:	\$7,369.35	\$2,072.80

* - Business Expense

** - Petitioner's Business is combining an Activist and a Truck Driver. While Petitioner travels over the next six months in order to become an insurable petroleum tanker driver, he needs to ensure his daughter has a squirrel-free & safe home environment where his Other Dependent raises, entertains, and transports his daughter. Petitioner cannot leave home until the 5/3/2024 and 5/22/2024 Fairfax J&DR Hearings where Petitioner is attempting to have his three-year-old daughter receive ABA Therapy to address her Speech Delay. In advance of the Fairfax J&DR 5/3/2024 Status Hearing, Petitioner has plans to move household clutter into storage if he can find the time.

9. Yes, I expect to get a job on or before 6/1/2024 with Covenant Transport, Inc. as a Team Truck Driver with a Team Truck Driver. I expect to be earning as much as \$8,000 a month with Covenant Transport, Inc. as my alimony is reduced to less than half (\$3,100 starting 6/1/2024). Hopefully, alimony will last until I have been at my new job for at least two weeks.

10. No, I am totally *pro se* at this time and have been *pro se* for the duration of the litigation presented hereafter. If this SCOTUS grants my 5/2/2024 "SCOTUS Petition for Writ of Certiorari to the Supreme Court of Virginia," I would ask Arlington, Virginia Attorney Gregory T. Hunter, Esquire if he would represent me. I believe his phone number is 703-966-7226.

11. No, I am completing this form myself and have paid only Process Servers (there have been three companies I used) to serve documents in connection with the underlying cases in the FCGDC, FCCC, COAV, SCV, and SCOTUS.

12. I have two people who are totally dependent on me and I lack the time and resources (formatting and printing are time-consuming and costly) to format and print this SCOTUS Rule 14 Brief into 40 SCOTUS Rule 33.1 Booklets. I have been battling and finally evicted (on or about 1/22/2023) pernicious attic squirrels from my townhouse still requiring extensive house repairs while I have been: **1)** moving my elderly Mom across the country into Local Assisted Living; **2)** selling my Mom's house with brother and sister; **3)** repairing my two cars for Virginia Inspection plus repairing my 19-year-old daughter's boyfriend's car so he could start working at Jiffy Lube; **4)** getting my special needs 11/29/2023-diagnosed autistic three-year-old daughter help through Infant and Toddler Connection and Premier Pediatric Therapy Source; **5)** simultaneously litigating in the SCV and Fairfax J&DR; **6)** providing daycare for my pregnant 21-year-old daughter with a 10-month-old son; and **7)** fighting for my special needs three-year-old daughter to receive ABA Therapy as recommended by her Developmental Pediatrician and Speech-Language Pathologist. I need my autistic daughter to receive Applied Behavior Analysis (ABA) Therapy through FCPS PAC and/or ARC and have taken my Other Dependent to Fairfax J&DR for this reason beginning on 2/21/2024. My Other Dependent, three-year-old daughter, and I all live in the same townhouse and will continue to live under the same roof through the Fairfax J&DR litigation. I still must drive with my CDL for SIX MONTHS more before I am eligible for employment as an INSURED professionally petroleum tanker driver locally in Fairfax, Virginia which will allow me more time: **1)** with my autistic three-year-old daughter at home; and **2)** with my almost 94-year-old Mom recently relocated (on or about 3/29/2023) from Tucson, Arizona to Assisted Living in Oakton, Virginia.

28 U.S.C §1746 DECLARATIONS WITH SIGNATURES

I DECLARE under penalty of perjury that the foregoing "SCOTUS Motion for Leave of Court to Proceed *In Forma Pauperis*" was completed thoroughly being true and correct. I am executing this document on May 2, 2024.



Gregory Shawn Mercer
Gregory Shawn Mercer, pro se