

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

Pursuant to 28 U.S.C. §§ 1915 and 1746 and Supreme Court Rules 21, 33.2, and 39, Petitioner respectfully moves for leave to file the accompanying petition for a writ of certiorari and to proceed in forma pauperis, without prepayment of costs or fees:

STATEMENT

Petitioner seeks an order granting leave to proceed in forma pauperis, so that the petitioner may file and prosecute the accompanying petition without paying the Supreme Court docketing fee, and any further required filings in this Court may be made without prepayment of fees, consistent with 28 U.S.C. § 1915 and Rule 39.

In addition, Petitioner files an Affidavit/Declaration in Support of Motion to Proceed In Forma Pauperis.

I. THE LOWER COURTS PREVIOUSLY GRANTED MOTION TO PROCEED IM FORMA PAUPERIS

In the court below, Petitioner sought leave to proceed in forma pauperis. At the trial court and on appeal, Petitioner sought IFP status on Jan 30, 2024 and April 9, 2025. The court granted both requests for leave to proceed in Forma Pauperis.

Petitioner attaches copies of the relevant orders on IFP status in the lower court(s) to fully comply with Rule 39.1.

II. THE PETITIONER FILES THE WRIT OF CERTIORARI IN GOOD FAITH AND BELIEVES THE PETITION HAS MERIT

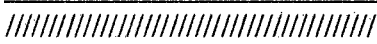
The accompanying petition raises substantial questions of federal law and the filing is taken in good faith. Under *Coppedge v. United States*, 369 U.S. 438, 445 (1962), the "good faith" requirement for in forma pauperis practice is satisfied when a litigant seeks review of at least one issue that is not frivolous. The petition is not brought for delay or harassment. The Petitioner seeks only a fair opportunity to present questions that fall within this Court's jurisdiction and traditional certiorari criteria under Rule 10.

PRAYER

WHEREFORE, For the foregoing reasons, Plaintiff respectfully requests that this Court of Criminal Appeals of Texas grant the plaintiff's request as follows:

- 1) Grant this Motion for Leave to Proceed In Forma Pauperis;
- 2) Permit Petitioner to file and pursue the accompanying petition without prepayment of the docketing fee or other costs; and
- 3) Grant such other and further relief as may be appropriate.

Respectfully submitted,



Shawn Olali
2346 Silver Trace Lane
Allen TX 75013
(214) 425-1173
Shawnolali@gmail.com
The Petitioner
December 30th, 2025

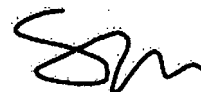
CERTIFICATE OF SERVICE

I hereby certify that the foregoing document complies with service pursuant to the rules of the US Supreme Court. Specifically, US Supreme Court Rules 29. 12(2). 12(3). On December 30, 2025, the plaintiff caused a copy of this motion to proceed in Fournu Pauperis with the appendix to be served on the attorneys and counsel for the defendant by USPS mail as follows:

Chandler Gordon
Littler Mendelson P.C.
2001 Ross Avenue, #1500
Dallas, TX 75201-2931

James McGehee
Littler Mendelson P.C.
2001 Ross Avenue, #1500
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//

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The Petitioner

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APPENDIX A.A

Affidavit of Indigency

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

I, Shawn Olali, 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>0</u>	\$ _____
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>	\$ _____	\$ <u>0</u>	\$ _____
Total monthly income:	\$ <u>0</u>	\$ _____	\$ <u>0</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
<u>Unemployed</u>	<u>N/A</u>	<u>N/A</u>	<u>\$ N/A</u>
<u>KFC</u>	<u>DFW, TX</u>	<u>5/2024 - 06/2024</u>	<u>\$ 4,000</u>
<u>Q+</u>	<u>DFW, TX</u>	<u>11/2023 - 03/2024</u>	<u>\$ 2,800</u>

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
<u>N/A</u>	<u></u>	<u></u>	<u>\$</u>
<u></u>	<u></u>	<u></u>	<u>\$</u>
<u></u>	<u></u>	<u></u>	<u>\$</u>

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
<u>Chase Bank</u>	<u>\$ -1500 (Negative)</u>	<u>\$ N/A</u>
<u>Comenity Credit Union</u>	<u>\$ -30 (Negative)</u>	<u>\$</u>
<u>Wells</u>	<u>\$ 1,500</u>	<u>\$</u>

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

- Home
Value N/A
- Other real estate
Value N/A
- Motor Vehicle #1
Year, make & model _____
Value N/A
- Motor Vehicle #2
Year, make & model _____
Value N/A
- Other assets
Description No major assets
Value N/A

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
N/A	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____

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
N/A	_____	_____
_____	_____	_____
_____	_____	_____

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)	\$ 20	\$ _____
Are real estate taxes included? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Is property insurance included? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ 25	\$ _____
Home maintenance (repairs and upkeep)	\$ 0	\$ _____
Food	\$ 250	\$ _____
Clothing	\$ 36	\$ _____
Laundry and dry-cleaning	\$ 15	\$ _____
Medical and dental expenses	\$ 30	\$ _____

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ <u>220</u>	\$ _____
Recreation, entertainment, newspapers, magazines, etc.	\$ <u>0</u>	\$ _____
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ <u>0</u>	\$ _____
Life	\$ <u>0</u>	\$ _____
Health	\$ <u>0</u>	\$ _____
Motor Vehicle	\$ <u>0</u>	\$ _____
Other: _____	\$ <u>0</u>	\$ _____
Taxes (not deducted from wages or included in mortgage payments)		
(specify): _____	\$ <u>0</u>	\$ _____
Installment payments		
Motor Vehicle	\$ <u>0</u>	\$ _____
Credit card(s)	\$ <u>0</u>	\$ _____
Department store(s)	\$ <u>0</u>	\$ _____
Other: _____	\$ <u>0</u>	\$ _____
Alimony, maintenance, and support paid to others	\$ <u>0</u>	\$ _____
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ <u>0</u>	\$ _____
Other (specify): _____	\$ <u>0</u>	\$ _____
Total monthly expenses:	\$ <u>426</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:

N/A

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:

N/A

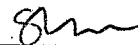
12. Provide any other information that will help explain why you cannot pay the costs of this case.

The plaintiff has incurred minimal essential costs (-900) every month which reduce any monies saved. Given a year of consecutive unemployment, the plaintiff has incurred \$4000 to \$5,000 in expense wiping out earnings from previous year coupled with employer's historic periods contributing to low actual/realized financial capital the plaintiff has drastically reduced financial capacity to

I declare under penalty of perjury that the foregoing is true and correct. Without being penalized

Executed on: December 31st, 2015

of unemployment - temporary unemployment holds pay costs.



(Signature)

APPENDIX A.B

District Court Orders Granting to Appeal in Forma Pauperis

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

SHAWN OLALI,

Plaintiff,

v.

No. 4:24-cv-00203-P

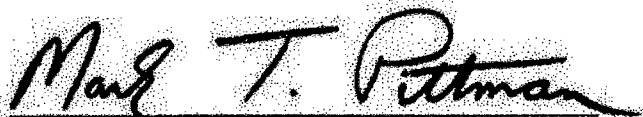
CVS INC.,

Defendant.

ORDER

The motion of the Plaintiff, Shawn Olali, for leave to proceed *in forma pauperis* on appeal, is **GRANTED**.

SO ORDERED on this 9th day of April 2025.

A handwritten signature in black ink, reading "Mark T. Pittman", written over a horizontal line.

MARK T. PITTMAN
UNITED STATES DISTRICT JUDGE

APPENDIX A.C

District Court Orders Granting Leave to File Lawsuit in Forma Pauperis

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SHAWN OLALI,

Plaintiff,

V.

CVS, INC.,

Defendant.

§
§
§
§
§
§
§
§

No. 3:24-cv-232-N-BN

ORDER GRANTING LEAVE TO PROCEED *IN FORMA PAUPERIS*
AND NOTICE OF DEFICIENCY AS TO COMPLAINT

Plaintiff Shawn Olali filed a *pro se* complaint alleging termination based on race, in violation of Title VII of the Civil Rights Act of 1964, against Defendant CVS, Inc. See Dkt. No. 3. Olali also moved for leave to proceed *in forma pauperis* (“IFP”). See Dkt. No. 4. So Chief United States District Judge David C. Godbey referred this case to the undersigned United States magistrate judge for pretrial management under 28 U.S.C. § 636(b) and a standing order of reference.

Under the provisions of 28 U.S.C. § 1915, permission is hereby granted for Olali to proceed IFP in this Court until judgment is entered. But service of process shall not issue, if at all, until the Court completes its screening of the complaint under 28 U.S.C. § 1915(e)(2).

Section 1915(e)(2) requires that the Court “dismiss the case at any time” if it “fails to state a claim on which relief may be granted.” 28 U.S.C. § 1915(e)(2)(B)(ii). The Court is therefore “statutorily mandate[d] to dismiss a complaint whenever it becomes apparent to the court that no claim for relief is stated.” *Harmon v. Nguyen*,

No. 3:14-cv-2038-D-BN, 2016 WL 750923, at *5 (N.D. Tex. Feb. 4, 2016) (quoting *Moore-Bey v. Cohn*, 69 F. App'x 784, 787-88 (7th Cir. 2003) (per curiam)), *rec. adopted*, 2016 WL 740381 (N.D. Tex. Feb. 25, 2016).

“The language of § 1915(e)(2)(B)(ii) tracks the language of Federal Rule of Civil Procedure 12(b)(6).” *Black v. Warren*, 134 F.3d 732, 733-34 (5th Cir. 1998) (per curiam). Accordingly, the pleading requirements set out in *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007), and *Ashcroft v. Iqbal*, 556 U.S. 662 (2009), apply to the Court’s screening of a complaint filed IFP.

Considering these standards, Federal Rule of Civil Procedure 8(a)(2) does not require that a complaint contain detailed factual allegations, just “enough facts to state a claim to relief that is plausible on its face.” *Twombly*, 550 U.S. at 570.

“The plausibility standard is not akin to a ‘probability requirement,’ but it asks for more than a sheer possibility that a defendant has acted unlawfully.” *Iqbal*, 556 U.S. at 678. So, “[w]here a complaint pleads facts that are merely consistent with a defendant’s liability, it stops short of the line between possibility and plausibility of entitlement to relief.” *Id.* (cleaned up; quoting *Twombly*, 550 U.S. at 557).

On the other hand, “[a] claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.*

And, while a court must accept a plaintiff’s allegations as true, it is “not bound to accept as true a legal conclusion couched as a factual allegation.” *Id.* (quoting

Twombly, 550 U.S. at 555).

In fact, “the court does not ‘presume true a number of categories of statements, including,’” in addition to legal conclusions, “‘mere labels; threadbare recitals of the elements of a cause of action; conclusory statements; and naked assertions devoid of further factual enhancement.’” *Armstrong v. Ashley*, 60 F.4th 262, 269 (5th Cir. 2023) (quoting *Harmon v. City of Arlington, Tex.*, 16 F.4th 1159, 1162-63 (5th Cir. 2021)).

In sum, to survive dismissal, plaintiffs must “plead facts sufficient to show” that the claims asserted have “substantive plausibility” by stating “simply, concisely, and directly events” that they contend entitle them to relief. *Johnson v. City of Shelby, Miss.*, 574 U.S. 10, 12 (2014) (per curiam) (citing FED. R. CIV. P. 8(a)(2)-(3), (d)(1), (e)); see also *Inclusive Communities Project, Inc. v. Lincoln Prop. Co.*, 920 F.3d 890, 899 (5th Cir. 2019) (“Determining whether a complaint states a plausible claim for relief” is ‘a context-specific task that requires the reviewing court to draw on its judicial experience and common sense.’” (quoting *Iqbal*, 556 U.S. at 679)).

And “[t]he burden is on the plaintiff to frame a ‘complaint with enough factual matter (taken as true) to suggest’ that he or she is entitled to relief.” *Robbins v. Oklahoma*, 519 F.3d 1242, 1248 (10th Cir. 2008) (quoting *Twombly*, 550 U.S. at 556).

So far, Olali has failed to carry this burden to the extent that, while a wrongful employment practice is alleged, there are not sufficient factual allegations in the complaint to demonstrate that the allegation is plausible.

To plausibly allege (and ultimately prove) such a claim against an employer or

former employer requires that a plaintiff either rely on direct evidence or proceed under a burden-shifting analysis.

“[D]irect evidence is rare” and has been defined “as evidence which, if believed, proves the fact without inference or presumption.” *Clark v. Champion Nat’l Sec., Inc.*, 952 F.3d 570, 579 (5th Cir. 2020) (cleaned up). For example, “[a] statement or document which shows on its face that an improper criterion served as a basis – not necessarily the sole basis, but a basis – for the adverse employment action [is] direct evidence of discrimination.” *Id.* (cleaned up).

Insofar as Olali lacks such direct evidence, the first step in the burden-shifting analysis requires that a plaintiff articulate a prima facie case as to each cause of action.

And, as Olali alleges that the termination was discriminatory in violation of Title VII of the Civil Rights Act of 1964, the prima facie elements for a claim of discrimination under Title VII are that a plaintiff

- (1) is a member of a protected group;
- (2) was qualified for the position at issue;
- (3) was discharged or suffered some adverse employment action by the employer; and
- (4) was replaced by someone outside his protected group or was treated less favorably than other similarly situated employees outside the protected group.

McCoy v. City of Shreveport, 492 F.3d 551, 556 (5th Cir. 2007) (citation omitted).

A plaintiff need not establish a prima facie case at the pleading stage. See *Cicalese v. Univ. of Tex. Med. Branch*, 924 F.3d 762, 766 (5th Cir. 2019); *Raj v. La. State Univ.*, 714 F.3d 322, 331 (5th Cir. 2013).

But a plaintiff must “plead sufficient facts on all of the ultimate elements of his claim to make his case plausible.” *Chhim v. Univ. of Tex. at Austin*, 836 F.3d 467, 470 (5th Cir. 2016) (citations omitted).

A district court may therefore rely on the prima facie elements “to frame [its] inquiry” at the pleading stage. *Norsworthy v. Hous. Indep. Sch. Dist.*, 70 F.4th 332, 336 (5th Cir. 2023); *see also Meadows v. City of Crowley*, 731 F. App’x 317, 318 (5th Cir. 2018) (per curiam) (*Raj* “does not exempt a plaintiff from alleging facts sufficient to establish the elements of her claims.” (citations omitted)); *Body by Cook, Inc. v. State Farm Mut. Auto. Ins.*, 869 F.3d 381, 387 n.1 (5th Cir. 2017) (“Although not a pleading standard, this court has looked to the ‘evidentiary framework’ set forth in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973), to determine whether a plaintiff pleads discriminatory intent.” (cleaned up)).

So, at this stage, the Court must ask whether the plaintiff has alleged enough facts, accepted as true, to allege an actionable employment-based claim. *See Swierkiewicz v. Sorema N.A.*, 534 U.S. 506, 512-13 (2002).

And, if they have “not pled such facts,” it is “proper[to] dismiss” that claim. *Meadows*, 731 F. App’x at 318; *see also Cicalese*, 924 F.3d at 766-67 (noting that the district court’s “task is to identify the ultimate elements of [the applicable employment-related] claim and then determine whether the” plaintiff has pled those elements but that a “district court err[s if it] require[es a plaintiff] to plead something beyond those elements to survive a motion to dismiss”).

Considering these standards, Olali may file an amended complaint no later than **March 7, 2024**.

The amended complaint must also specify where Olali was employed – the physical address(es) for the CVS location(s) at which he was employed.

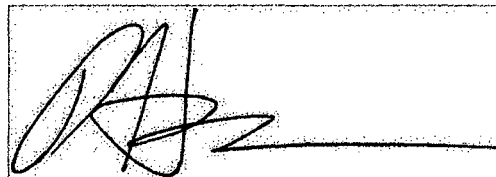
A lawsuit alleging an unlawful employment practice in violation of Title VII may generally be brought where “the unlawful employment practice is alleged to have been committed,” where “the employment records relevant to such practice are maintained and administered,” or where “the aggrieved person would have worked but for the alleged unlawful employment practice.” 42 U.S.C. § 2000e-5(f)(3).

So the Court must know where Olali was employed to determine if this lawsuit is pending in the proper federal judicial district and division.

And the Court CAUTIONS Olali that failure to timely file an amended complaint subjects this lawsuit to dismissal under 28 U.S.C. § 1915(e)(2)(B) and Federal Rule of Civil Procedure 41(b).

SO ORDERED.

DATED: February 5, 2024

A handwritten signature in black ink, appearing to read 'D. Horan', is written over a rectangular box. The signature is stylized and includes a long horizontal line extending to the right.

DAVID L. HORAN
UNITED STATES MAGISTRATE JUDGE