

No. _____
(CAPITAL CASE)

IN THE
Supreme Court of the United States

ARTHUR LEE BURTON,

Petitioner,

v.

STATE OF TEXAS

Respondent.

On Petition for a Writ of Certiorari to the
Court of Criminal Appeals of Texas

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

Pursuant to Supreme Court Rule 39, the Petitioner, ARTHUR BURTON LEE, by and through his pro-bono counsel, request that the Court grant him leave to proceed *in forma pauperis*. In support of this Motion, the Petitioner avers that:

1. Petitioner is unable to afford the cost of representation in this matter; undersigned counsel represent Petitioner *pro bono*. Pursuant to Rule 39(1), Petitioner's declaration is attached hereto as Exhibit A.

2. Petitioner was first appointed counsel on August 11, 1997, in the state trial court proceedings on the basis that he was "too poor to employ counsel."

Petitioner sought leave to proceed *in forma pauperis* (1) in Case No. 4:10-cv-01314

in the Southern District of Texas, which leave was granted; (2) in Case No. 12-70021 in the United States Court of Appeals for the Fifth Circuit, which leave was granted; and (3) before this Court in Case No. 13-9591, in which it appears the petition was denied prior to any ruling on the motion for leave to proceed *in forma pauperis*.

WHEREFORE, the petitioner, ARTHUR LEE BURTON, by and through undersigned counsel, respectfully requests that he be allowed to proceed *in forma pauperis* without payment of filing fees or service of notice fees, and for such other relief as the Court deems just and proper.

Dated: August 3, 2024

By /s/ Steven J Wells
Steven J. Wells
Counsel of Record
Member, Supreme Court Bar

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EXHIBIT A

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

I, Arthur Burton, 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>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Self-employment	\$ _____	\$ _____	\$ _____	\$ _____
Income from real property (such as rental income)	\$ _____	\$ _____	\$ _____	\$ _____
Interest and dividends	\$ _____	\$ _____	\$ _____	\$ _____
Gifts	\$ _____	\$ _____	\$ _____	\$ _____
Alimony	\$ _____	\$ _____	\$ _____	\$ _____
Child Support	\$ _____	\$ _____	\$ _____	\$ _____
Retirement (such as social security, pensions, annuities, insurance)	\$ _____	\$ _____	\$ _____	\$ _____
Disability (such as social security, insurance payments)	\$ _____	\$ _____	\$ _____	\$ _____
Unemployment payments	\$ _____	\$ _____	\$ _____	\$ _____
Public-assistance (such as welfare)	\$ _____	\$ _____	\$ _____	\$ _____
Other (specify): <u>Inmate trust contribution</u>	\$ <u>20</u>	\$ _____	\$ <u>20</u>	\$ _____
Total monthly income:	\$ <u>20</u>	\$ _____	\$ <u>20</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
N/A	N/A	N/A	\$ 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
N/A	N/A	N/A	\$ N/A
↓	↓	↓	↓

4. How much cash do you and your spouse have? \$ ~ \$ 507
 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
Inmate trust fund	\$ 507	\$ N/A
	\$.	\$.
	\$.	↓

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

<input type="checkbox"/> Home Value \$ 0	<input type="checkbox"/> Other real estate Value \$ 0
<input type="checkbox"/> Motor Vehicle #1 Year, make & model \$ Value \$ 0	<input type="checkbox"/> Motor Vehicle #2 Year, make & model \$ Value \$ 0
<input type="checkbox"/> Other assets Description \$ Value \$ 0	

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	\$ 0	\$ 0
↓	\$	\$
	\$	\$

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)	\$ 0	\$ N/A
Are real estate taxes included? <input type="checkbox"/> Yes <input type="checkbox"/> No		↓
Is property insurance included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ 0	\$
Home maintenance (repairs and upkeep)	\$ 0	\$
Food	\$ 60	\$
Clothing	\$ 0	\$
Laundry and dry-cleaning	\$ 0	\$
Medical and dental expenses	\$ 10	\$ ↓

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ <u>0</u>	\$ <u>N/A</u>
Recreation, entertainment, newspapers, magazines, etc.	\$ <u>50</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>120</u>	\$ <u>↓</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.

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

Executed on: 7/26/2024 AB, 2024

Arthur Burton
(Signature)