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:

 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 <u>/s/ Steven J Wells</u> Steven J. Wells *Counsel of Record* Member, Supreme Court Bar

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## **EXHIBIT** A

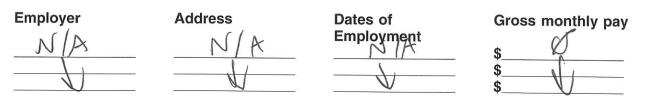
## AFFIDAVIT OR DECLARATION IN SUPPORT OF MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

I, <u>Arthur Burthy</u>, 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.

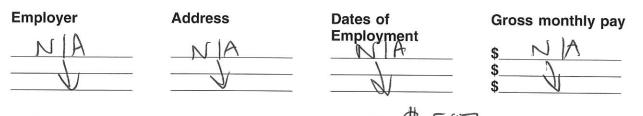
1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

| Income source Average the page 100 the page | ge monthly amount during<br>st 12 months |        | Amount expected<br>next month |        |
|---|--|--------|-------------------------------|--------|
|   | You                                      | Spouse | You                           | Spouse |
| Employment  | \$_Ø                                     | \$NA   | \$_Ø                          | \$ NA  |
| Self-employment   | \$                                       | \$     | \$                            | \$     |
| Income from real property (such as rental income)   | \$                                       | \$     | \$                            | \$     |
| Interest and dividends  | \$                                       | • \$   | \$,                           | \$     |
| Gifts   | \$                                       | \$     | \$                            | \$     |
| Alimony   | \$                                       | \$     | \$                            | \$     |
| Child Support   | \$                                       | \$     | \$                            | \$     |
| Retirement (such as social<br>security, pensions,<br>annuities, insurance)  | \$                                       | \$     | \$                            | \$     |
| Disability (such as social security, insurance payments)  | \$                                       | \$     | \$                            | \$     |
| Unemployment payments   | \$                                       | \$     | \$                            | \$     |
| Public-assistance<br>(such as welfare)  | \$V                                      | \$     | \$                            | \$     |
| Other (specify): Inmate<br>trust CONtribution   | \$ 20                                    | \$     | \$ 20                         | \$     |
| Total monthly income:   | \$_20                                    | \$     | \$_20                         | \$     |

2. List your employment history for the past two years, most recent first. (Gross monthly pay is before taxes or other deductions.)



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.)

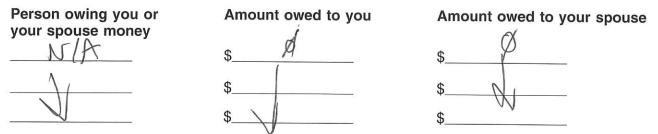


| Type of account (e.g., checking or savings) | Amount you have<br>\$らい】 | Amount your spouse has |
|---|--------------------------|------------------------|
| · · · · · · · · · · · · · · · · · · ·       | \$\$                     | \$                     |

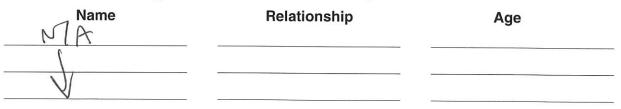
5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

| Value   | □ Other real estate<br>Value                      |
|---|---|
| □ Motor Vehicle #1<br>Year, make & model<br>Value | □ Motor Vehicle #2<br>Year, make &/model<br>Value |
| □ Other assets<br>Description<br>Value            |   |

6. State every person, business, or organization owing you or your spouse money, and the amount owed.



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").



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.

| a  | You          | Your spouse   |
|--|--------------|---------------|
| Rent or home-mortgage payment<br>(include lot rented for mobile home)<br>Are real estate taxes included? | \$           | <u>\$ N A</u> |
| Utilities (electricity, heating fuel, water, sewer, and telephone)                                       | \$           | \$            |
| Home maintenance (repairs and upkeep)  | \$\$         | \$            |
| Food   | <u>\$</u> 60 | \$            |
| Clothing   | \$           | \$            |
| Laundry and dry-cleaning   | \$           | \$            |
| Medical and dental expenses  | \$\O         | \$            |

|   | You                  | Your spouse        |
|---|----------------------|--------------------|
| Transportation (not including motor vehicle payme   | ents) \$             | \$ N/A             |
| Recreation, entertainment, newspapers, magazine   | s, etc. <u>\$</u> 50 | \$                 |
| Insurance (not deducted from wages or included in   | n mortgage payments) |                    |
| Homeowner's or renter's   | \$                   | \$                 |
| Life  | \$                   | \$                 |
| Health  | \$                   | \$                 |
| Motor Vehicle   | \$                   | \$                 |
| Other:  | \$Ŷ                  | \$                 |
| Taxes (not deducted from wages or included in mo  | rtgage payments)     |                    |
| (specify):  | \$Q                  | \$                 |
| Installment payments  | 4                    | 1947 - 19 <b>.</b> |
| Motor Vehicle   | \$                   | \$                 |
| Credit card(s)  | \$                   | \$                 |
| Department store(s)   | \$                   | \$                 |
| Other:  | \$Ø                  | \$                 |
| Alimony, maintenance, and support paid to others  | \$                   | \$                 |
| Regular expenses for operation of business, profes<br>or farm (attach detailed statement) | sion, <u>\$</u>      | \$                 |
| Other (specify):  | <u>\$</u>            | \$                 |
| Total monthly expenses:   | \$ 120               | \$                 |

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

2 Yes No 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?  $\Box$  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?

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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: 1 26 20 24 A.B., 20 34

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(Signature)