

Over

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1979

No. 79-935

RECEIVED

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OFFICE OF THE CLERK
SUPREME COURT, U.S.

MARVIN ALLEN,
STEVEN JACOBMEYER,
and
UNKNOWN POLICE OFFICERS,

Petitioners,

vs.

WILLIE McCURRY,

Respondent.

RESPONDENT'S AFFIDAVIT IN SUPPORT
OF MOTION FOR LEAVE TO PROCEED
IN FORMA PAUPERIS

I, WILLIE McCURRY, being first duly sworn according to
law, depose and say that I am the respondent in the above-
entitled cause, and, in support of my application for leave

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FOR REMAINDER OF PAGE

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RESPONDENT'S AFFIDAVIT IN SUPPORT
OF MOTION FOR LEAVE TO PROCEED
IN FORMA PAUPERIS

I, WILLIE McCURRY, being first duly sworn according to law, depose and say that I am the respondent in the above-entitled cause, and, in support of my application for leave to proceed in forma pauperis, state:

1. Because of my poverty I am unable to pay the costs of said cause.

2. I am unable to give security for the same.

3. I believe that I am entitled to the redress I seek in said cause.

4. The nature of said cause is briefly stated as follows:

I brought this cause under 42 U.S.C. § 1983 in the United States District Court for the Eastern District of Missouri for violations of my fourth amendment rights. The

District Court dismissed this cause applying collateral estoppel, and the United States Court of Appeals for the Eighth Circuit reversed the District Court on all points. Petitioners have filed for a Writ of Certiorari to review the Court of Appeals decision alleging that collateral estoppel is applicable in actions under 42 U.S.C. § 1983 involving violations of fourth amendment rights. I am filing this affidavit so that I may respond in forma pauperis.

Willie McCurry
WILLIE MCCURRY

Signed and sworn to before me this DEC 28 1979 day of
DEC 28 1979, 1979, in the State of DEC 28 1979,

County of _____.

21
FLOYD A. GEORGE
Notary Public State of Missouri
COUNTY OF CALLAWAY
My Commission Expires Oct. 25, 1983.
My commission expires:

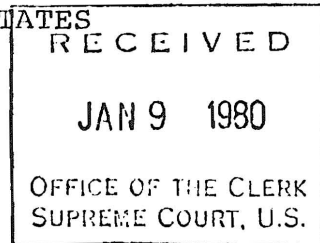
Floyd A. George
Notary Public

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MOTION FOR LEAVE TO PROCEED
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Comes now respondent, Willie McCurry, who is now held in a Missouri state penitentiary, and pursuant to Rule 53, paragraph 1, of the Rules of the Court asks leave to file the attached Brief in Opposition to a Writ of Certiorari to

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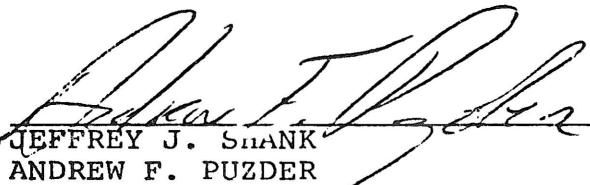
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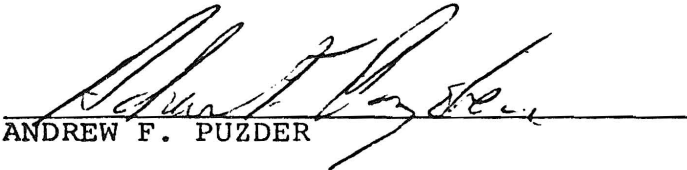
MOTION FOR LEAVE TO PROCEED
IN FORMA PAUPERIS

Comes now respondent, Willie McCurry, who is now held in a Missouri state penitentiary, and pursuant to Rule 53, paragraph 1, of the Rules of the Court asks leave to file the attached Brief in Opposition to a Writ of Certiorari to the United States Court of Appeals for the Eighth Circuit without prepayment of costs and to proceed in forma pauperis. The petitioner's Affidavit in Support of this Motion is attached hereto.


JEFFREY J. SHANK
ANDREW F. PUZDER
Appointed Counsel for Respondent
408 Olive Street
Suite 802
St. Louis, Missouri 63102
(314) 241-6116

CERTIFICATE OF SERVICE

I hereby certify that on this 2 day of January, 19 80, a copy of the enclosed Motion for Leave to Proceed in Forma Pauperis and attached Affidavit was mailed, postage prepaid, to Mr. Jack L. Koehr, City Counselor; Mr. John J. Fitzgibbon, Associate City Counselor; and Mr. Robert H. Dierker, Jr., Assistant City Counselor, Attorneys for Petitioners, 314 City Hall, St. Louis, Missouri, 63103.


ANDREW F. PUZDER