

CAPITAL CASE

DOCKET NO. _____

IN THE SUPREME COURT OF THE UNITED STATES

RAY LAMAR JOHNSTON,

Petitioner,

vs.

STATE OF FLORIDA,

Respondent.

**ON PETITION FOR A WRIT OF CERTIORARI
TO THE FLORIDA SUPREME COURT**

MOTION TO PROCEED *IN FORMA PAUPERIS*

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MOTION TO PROCEED *IN FORMA PAUPERIS*

The Petitioner, Ray Lamar Johnston, by and through the undersigned counsel, and asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

[x] Petitioner has previously been granted leave to proceed *in forma pauperis* in the following courts:

1) The Circuit Court, in and for the Thirteenth Judicial Circuit, Hillsborough County, Florida (Petitioner was declared indigent and the Public Defender's Office appointed on 2-20-98 nunc pro tunc to 9-8-97. He was again "adjudged insolvent" on 5-3-00 for purposes of appeal in the Florida Supreme Court);

2) The Supreme Court of Florida declared Mr. Johnston "Insolven[t]" and required "no fee" for the direct appeal on 5-9-00.

3) Petitioner subsequently filed an affidavit of indigency in the in the United States District Court for the Middle District of Florida in this case on 9-15-11 seeking *In Forma Pauperis* status (Case No. 8-11-cv-020940-EAK-TGW). Judge Kovachevich appointed counsel, ultimately denied the petition on the merits, then denied a COA and *In Forma Pauperis* status on 9-22-14.

In a separate case, Case No. 8:11-cv-2327-T-23TBM in the United States District Court for the Middle District of Florida, the Petitioner filed an affidavit of indigency on 10-14-11. Judge Merryday "construed [the affidavit] as a motion for leave to proceed *in forma pauperis*," and granted the motion by Order rendered 12-14-11.

[x]Petitioner's affidavit or declaration is not attached because courts below appointed counsel in the current proceeding. The appointments were made under the following provisions of law:

Counsel for Petitioner was appointed for representation under Florida Statute 27.710 in the state proceedings, and under the Criminal Justice Act of 1964, 18 U.S.C. § 3006A and 21 U.S.C. § 848(q) in the federal proceedings.

/s/ David D. Hendry
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