

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Earnest S. Harris — PETITIONER
(Your Name)

VS.

California Department of Corrections
and Rehabilitation — RESPONDENT(S)

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The petitioner asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

[☒] Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s):

9th cir. United States Court of Appeals; United States Northern
District Court

[☐] Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

Petitioner's affidavit or declaration in support of this motion is attached hereto.


(Signature)

(E) appearing in any proceeding in actions to enforce collection on promissory notes involving federally insured loans and direct federal loans in which the prayer for relief is less than \$25,000;

(F) appearing in any proceeding in actions to enforce cease and desist orders issued by the National Labor Relations Board;

(G) appearing in any proceeding in actions to enforce civil penalties assessed under 46 U.S.C. §§ 2302, 4311(d), and 12309(c); and

(H) appearing in any proceeding in petitions for writs, or actions seeking relief under the Federal Civil Rights Act by incarcerated persons acting in propria persona.

(5) In all instances in which, under these Rules, a Certified Student is permitted to appear in any trial, hearing, or other proceeding before any Judge, Magistrate Judge, or special master of the United States District Court for the Eastern District of California, the Certified Student shall, as a condition to such appearance, cause the filing of the Consent Form or present the Consent Form for filing to the Judge, Magistrate Judge, or special master.

(6) Certified Students whose Supervising Attorneys are not governmental attorneys or attorneys acting full-time on behalf of the Office of the Federal Defender shall satisfy not only the requirements of this Rule, but also the requirements imposed by the State Bar of California Rules Governing the Practical Training of Law Students, as those Rules may be amended from time to time.

(7) Nothing in this Rule shall prevent a student, certified or uncertified, from performing any advisory or representational activity that a person who is not admitted to practice before the United States District Court for the Eastern District of California could perform.

(e) Supervising Attorney. The Supervising Attorney shall:

(1) be admitted to practice before the United States District Court for the Eastern District of California;

(2) supervise no more than five (5) Certified Students concurrently, provided, however, that this limitation on supervision may be modified by the Chief Judge upon application and showing of good cause therefor;

(3) assume personal professional responsibility for any work performed by the Certified Student while under the attorney's supervision;

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

I, Ernest S. Harris, 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	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Self-employment	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Income from real property (such as rental income)	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Interest and dividends	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Gifts	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Alimony	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Child Support	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Retirement (such as social security, pensions, annuities, insurance)	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Disability (such as social security, insurance payments)	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Unemployment payments	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Public-assistance (such as welfare)	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Other (specify): _____	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Total monthly income:	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00

(4) assist and counsel with the Certified Student in the activities permitted under this Rule and review such activities with the Certified Student;

(5) read, approve, and sign any pleadings, briefs or other papers prepared by the Certified Student prior to the filing thereof, provided, however, that this requirement shall not apply to amendments to accusatory pleadings nor to papers other than pleadings and briefs filed by a Certified Student whose Supervising Attorney is a member of the United States Attorney's Office, nor shall it apply to papers other than pleadings and briefs filed by a Certified Student whose Supervising Attorney is a member of the Federal Defender's Office and provided that this requirement shall not apply to pleadings and briefs filed in a Magistrate Judge's Court in a county other than Sacramento or Fresno by a Certified Student whose Supervising Attorney is a member of the United States Attorney's Office and whose Supervising Attorney has approved the pleading or brief after hearing it read over the telephone and authorizing the filing thereof;

(6) provide the required supervision of the Certified Student for the activities listed in this Rule;

(7) assign full responsibility for supervision to another designated attorney qualified to serve as a Supervising Attorney under this Rule in any instance in which the Supervising Attorney is to be unavailable; and

(8) notify the Clerk promptly in writing whenever the attorney's supervision of the Certified Student will cease without a written substitution of another qualified Supervising Attorney being filed with the Clerk.

(f) Use of the Designation "Certified Student." A Certified Student may be designated as such on pleadings, briefs, letters on the Supervising Attorney's letterhead and other documents on which the Certified Student has worked with or under the supervision and direction of the Supervising Attorney, by placing the Certified Student's name thereon with the words "Certified Student" immediately thereunder.

(g) Duration of Certification. Certification shall commence with the issuance by the Clerk of a Notice of Certification and shall remain in effect for the period specified in the Notice of Certification unless sooner terminated by the earliest of the following occurrences, absent relief from such termination granted by the Chief Judge:

(1) the Supervising Attorney terminates supervision of the Certified Student without a written substitution of another qualified Supervising Attorney on a form provided by and filed with the Clerk;

(2) the Certified Student ceases to be enrolled in an accredited law school prior to graduation therefrom, excepting the normal hiatus between quarters or semesters;

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
not Employed	N/A	N/A	\$ 0. ⁰⁰
not Employed	N/A	N/A	\$ 0. ⁰⁰
not Employed	N/A	N/A	\$ 0. ⁰⁰

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
not married	N/A	N/A	\$ 0. ⁰⁰
not married	N/A	N/A	\$ 0. ⁰⁰
not married	N/A	N/A	\$ 0. ⁰⁰

4. How much cash do you and your spouse have? \$ — have around \$100.⁰⁰
Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial institution	Type of account	Amount you have	Amount your spouse has
Person/Cal. Inst office		\$ 100. ⁰⁰	\$ N/A
		\$	\$
		\$	\$

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

☐ Home
Value \$ 0.⁰⁰

☐ Other real estate
Value \$ 0.⁰⁰

☐ Motor Vehicle #1
Year, make & model _____
Value \$ 0.⁰⁰

☐ Motor Vehicle #2
Year, make & model _____
Value \$ 0.⁰⁰

☐ Other assets
Description N/A
Value \$ 0.⁰⁰

(3) the Dean notifies the Clerk that the Certified Student should be disqualified from participation in the activities permitted by this Rule;

(4) the Certified Student fails to take or is notified of a failure to pass the first California General Bar Examination after the Certified Student's graduation from law school; or

(5) certification is withdrawn by the Chief Judge.

Upon the happening of any of the occurrences listed in (1), (3) or (5), the Clerk shall send Notice of Withdrawal of Certification to the Certified Student, the Supervising Attorney, and the Dean, which Notice shall set forth the reasons for the termination of Certified Student status.

(h) Rights Upon Withdrawal of Certification. In the event certification is withdrawn under subsection (g)(3) or (5), the termination shall be effective ten (10) court days from the date on which the Clerk transmits the Notice of Withdrawal of Certification. See L.R. 6-136. Upon receipt of such Notice, the Certified Student may present a request for a stay of the termination pending hearing, which the Chief Judge may allow only upon good cause shown. The Certified Student may contest the termination by a request to the Chief Judge, presented within ten (10) court days of the transmission of the Notice of Withdrawal of Certification, for a hearing to show cause why certification should not be terminated. Hearing on such request shall be commenced within fourteen (14) calendar days following receipt of such request, unless the time for such hearing be extended by the Chief Judge upon a showing of good cause. The Chief Judge may assign responsibility for the conduct of the proceedings under this subsection to any other Judge.

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
<u>n/A</u>	\$ <u>0.00</u>	\$ <u>0.00</u>
<u>n/A</u>	\$ <u>0.00</u>	\$ <u>0.00</u>
<u>n/A</u>	\$ <u>0.00</u>	\$ <u>0.00</u>

7. State the persons who rely on you or your spouse for support.

Name	Relationship	Age
<u>n/A</u>	<u>n/A</u>	<u>n/A</u>
<u>n/A</u>	<u>n/A</u>	<u>n/A</u>
<u>n/A</u>	<u>n/A</u>	<u>n/A</u>

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)	\$ <u>0.00</u>	\$ <u>0.00</u>
Are real estate taxes included? <input type="checkbox"/> Yes <input type="checkbox"/> No <u>n/A</u>		
Is property insurance included? <input type="checkbox"/> Yes <input type="checkbox"/> No <u>n/A</u>		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ <u>0.00</u>	\$ <u>0.00</u>
Home maintenance (repairs and upkeep)	\$ <u>0.00</u>	\$ <u>0.00</u>
Food	\$ <u>0.00</u>	\$ <u>0.00</u>
Clothing	\$ <u>0.00</u>	\$ <u>0.00</u>
Laundry and dry-cleaning	\$ <u>0.00</u>	\$ <u>0.00</u>
Medical and dental expenses	\$ <u>0.00</u>	\$ <u>0.00</u>

RULE 83-182

ATTORNEYS - APPEARANCE AND WITHDRAWAL

(a) Appearance as Attorney of Record.

(1) **Appearance Required.** Except as permitted in (b) and except as the Court may allow a courtesy appearance in criminal cases, no attorney may participate in any action unless the attorney has appeared as an attorney of record. A single client may be represented by more than one attorney of record to the extent authorized by the applicable Rules of Professional Conduct.

(2) **Manner of Making Appearance.** Appearance as an attorney of record is made (i) by signing and filing an initial document, see L.R. 7-131(a), (ii) by causing the attorney's name to be listed in the upper left hand corner of the first page of the initial document, (iii) by physically appearing at a court hearing in the matter, formally stating the appearance on the record, and then signing and filing a confirmation of appearance within three (3) court days; or (iv) by filing and serving on all parties a substitution of attorneys as provided in subsection (g).

(b) **Attorneys Within Organizations.** Appearances as an attorney of record shall not be made in the name of a law firm, organization, public entity, agency or department. See Fed. R. Civ. P. 11(a). When an attorney is employed or retained by a law firm, organization, public entity, agency or department, however, the attorney may participate in an action, without filing a substitution of attorneys, if another person employed or retained by the same law firm, organization, public entity, agency or department is attorney of record in the action.

(c) Counsel for Service.

(1) **Designation of Counsel for Service.** When multiple attorneys from a single law firm, organization, public entity, agency or department are listed in the upper left hand corner of the first page of each document filed with the Clerk, see L.R. 7-131(a), one of the listed attorneys shall be designated as counsel for service. That designation shall be accomplished by so designating in the counsel identification in the upper left hand corner of the first page of the initial document or by filing and serving a document entitled "Designation of Counsel for Service," which will state the name, address and telephone number of the designated counsel for service and will be signed by that counsel. The Clerk will serve court orders on the designated counsel for service. See L.R. 5-137(f). The identity of counsel for service in a particular action may be changed by filing and serving on all parties a document entitled "Change in Designation of Counsel for Service" stating the name, address and telephone number of new and old counsel for service, identifying new counsel for service and bearing the signature of the new counsel for service.

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ 0. ⁰⁰	\$ 0. ⁰⁰
Recreation, entertainment, newspapers, magazines, etc.	\$ 0. ⁰⁰	\$ 0. ⁰⁰
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ 0. ⁰⁰	\$ 0. ⁰⁰
Life	\$ 0. ⁰⁰	\$ 0. ⁰⁰
Health	\$ 0. ⁰⁰	\$ 0. ⁰⁰
Motor Vehicle	\$ 0. ⁰⁰	\$ 0. ⁰⁰
Other: _____	\$ 0. ⁰⁰	\$ 0. ⁰⁰
Taxes (not deducted from wages or included in mortgage payments)		
(specify): * 0. ⁰⁰	\$ 0. ⁰⁰	\$ 0. ⁰⁰
Installment payments		
Motor Vehicle	\$ 0. ⁰⁰	\$ 0. ⁰⁰
Credit card(s)	\$ 0. ⁰⁰	\$ 0. ⁰⁰
Department store(s)	\$ 0. ⁰⁰	\$ 0. ⁰⁰
Other: \$ 0. ⁰⁰	\$ 0. ⁰⁰	\$ 0. ⁰⁰
Alimony, maintenance, and support paid to others	\$ 0. ⁰⁰	\$ 0. ⁰⁰
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ 0. ⁰⁰	\$ 0. ⁰⁰
Other (specify): \$ 0. ⁰⁰	\$ 0. ⁰⁰	\$ 0. ⁰⁰
Total monthly expenses:	\$ 0. ⁰⁰	\$ 0. ⁰⁰

(2) **Service in the Absence of a Designation.** If no designation of counsel for service has been made in a particular instance, the Clerk may select the attorney for service from the listing in the upper left hand corner of the first page of the initial document filed with the Clerk or from the signature block.

(d) **Withdrawal.** Subject to the provisions of subsection (c), an attorney who has appeared may not withdraw leaving the client in propria persona without leave of Court upon noticed motion and notice to the client and all other parties who have appeared. The attorney shall provide an affidavit stating the current or last known address or addresses of the client and the efforts made to notify the client of the motion to withdraw. Withdrawal as attorney is governed by the Rules of Professional Conduct of the State Bar of California, and the attorney shall conform to the requirements of those Rules. The authority and duty of the attorney of record shall continue until relieved by order of the Court issued hereunder. Leave to withdraw may be granted subject to such appropriate conditions as the Court deems fit.

(e) **Withdrawal Following Limited Appearance.** Any attorney who has appeared on behalf of a party in an action solely for the purpose of contesting an application for a temporary restraining order or other preliminary injunctive relief may withdraw from that action within ten (10) days from the making of said appearance, or at such other time as the Court may determine, by filing a notice and affidavit that the attorney is no longer counsel of record for the party. Such application shall establish that the attorney has returned all documents and other items received in connection with the action and shall set forth the last known address and telephone number of the party.

(f) **Change of Address.** Each attorney appearing and each party appearing in propria persona is under a continuing duty to notify the Clerk and all other parties of any change of address or telephone number of the attorney or the party if appearing in propria persona. Absent such notice, service of documents at the prior address of the attorney or party shall be fully effective. Separate notice shall be filed with the Clerk and served on all parties in each action wherein an appearance has been made.

(g) **Substitution of Attorneys.** An attorney who has appeared in an action may substitute another attorney and thereby withdraw from the action by submitting a substitution of attorneys that shall set forth the full name and address of the new individual attorney and shall be signed by the withdrawing attorney, the new attorney, and the client. All substitutions of attorneys shall require the approval of the Court, and the words "**IT IS SO ORDERED**" with spaces designated for the date and signature of the Judge affixed at the end of each substitution of attorneys.

(h) **Local Co-Counsel.** A Judge to whom an action is assigned has discretion in that action, and upon notice, to require an attorney appearing in this Court who maintains an office outside this District to designate a member of the Bar of this

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 am incarcerated in CSP - CORCORAN S.H.U. I do not have a job, or prison job and I am not married.

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

Executed on: Oct 8, ~~2018~~, 20 18


(Signature)

Court who does maintain an office within this District as co-counsel with the authority to act as attorney of record for all purposes. In such a case, the attorney shall file with such designation the address, telephone number and consent of such designee.

(i) **Formal Notice of Association of Counsel.** Any attorney not substituted in as counsel of record under L.R. 83-182(g) and not authorized to participate under other provisions in this Local Rule must file a notice of association with the Clerk, signed by an attorney of record and the associating attorney, and served on all parties.