

18-8316

IN THE  
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.  
FILED

NOV 08 2018

OFFICE OF THE CLERK

RICARDO GUERRERO Petitioner,

v

CASE NO. 2:13-CR-844-1

2:16-CV-229

UNITED STATES OF AMERICA, Respondent.

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS  
PURSUANT TO 28 U.S.C. § 1915(a)(1)

NOW COMES, the petitioner, Ricardo Guerrero, moving the action  
in pro se, before this Honorable Court.

The petitioner, respectfully prays that the Court hears the  
motion and grant the application presented.

The petitioner, is proceedings with a petition for certiorari,  
as a result of the denial of motion for certificate of appealability,  
which had been pending before the Fifth Circuit Court of Appeals.

The petitioner, filed for an en banc hearing in accord with  
F.R.AP. 35(b)(A), in a timely manner and was denied.

The petitioner, respectfully avers that neither the district  
court, nor the Fifth Circuit Court of Appeals, have properly considered  
the fundamental due process violations which occurred below.

The petitioner, respectfully states that as the records below  
do confirm the due process violations were resultant of the ineff-  
ective assistance of trial counsel.

ORIGINAL

Trial Counsel's acts and omissions to act resulted in the waiver and forfeiture of this petitioner's fundamental due process rights to the application of Congressionally mandated provisions of two statutes, i.e., 18 U.S.C. § 3006A(e), and 18 U.S.C. § 3500(b), as well as the rights provisioned by the Fed.R.Crim.P. 16(a)(1)(c) and (E). Moreover, trial counsel, failed to initiate the Compulsory Process Clause of the Sixth Amendment, by failing to move the district court for an order/subpoena, of the original A.U.S.A. whom brokered the safety valve deal for the government witness Carmen Sanchez, 2012

The reliability of the trial process must be questioned as a proximate cause of the ineffective assistance of trial counsel.

DATE: 11/8/18

Respectfully submitted

Ricardo Guerrero  
Ricardo Guerrero

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

I, Ricardo Guerrero, 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>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Self-employment	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Income from real property (such as rental income)	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Interest and dividends	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Gifts	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Alimony	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Child Support	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Disability (such as social security, insurance payments)	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Unemployment payments	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Public-assistance (such as welfare)	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Other (specify): <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
<b>Total monthly income:</b>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</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	\$ N/A
N/A	N/A	N/A	\$ N/A
N/A	N/A	N/A	\$ N/A

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
N/A	N/A	N/A	\$ N/A
N/A	N/A	N/A	\$ N/A

4. How much cash do you and your spouse have? \$ 0  
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
N/A	\$ N/A	\$ N/A
N/A	\$ N/A	\$ N/A
N/A	\$ N/A	\$ N/A

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

N/A  
☐ Home  
Value N/A

N/A  
☐ Other real estate  
Value N/A

N/A  
☐ Motor Vehicle #1  
Year, make & model N/A  
Value N/A

N/A  
☐ Motor Vehicle #2  
Year, make & model N/A  
Value N/A

N/A  
☐ Other assets  
Description N/A  
Value N/A

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>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>

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
<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>n/a</u> <u>n/a</u>	\$ <u>n/a</u>	\$ <u>n/a</u>
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		
	<u>n/a</u> <u>n/a</u>	
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ <u>n/a</u>	\$ <u>n/a</u>
Home maintenance (repairs and upkeep)	\$ <u>n/a</u>	\$ <u>n/a</u>
Food	\$ <u>n/a</u>	\$ <u>n/a</u>
Clothing	\$ <u>n/a</u>	\$ <u>n/a</u>
Laundry and dry-cleaning	\$ <u>n/a</u>	\$ <u>n/a</u>
Medical and dental expenses	\$ <u>n/a</u>	\$ <u>n/a</u>

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

*n/a*

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? *n/a*

If yes, state the attorney's name, address, and telephone number:

*n/a*

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?

*n/a*

☐ Yes

☒ No

If yes, how much? *n/a*

If yes, state the person's name, address, and telephone number:

*n/a*

12. Provide any other information that will help explain why you cannot pay the costs of this case.

*I Am incarcerated.*

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

Executed on: *February* *25*, 20*19*

*Ricardo Guerra*

(Signature)