

No. _____

In The Supreme Court
Of The United States Of America

JASON JOHNSON

Petitioner - Citizen Pro se

Vs.

The People of the State of New York
Respondent

MOTION TO PROCEED
IN FORMA PAUPERIS

Pursuant to Rule 39 of this Court, incarcerated Petitioner Shawndell
Everson asks leave to proceed *in forma pauperis* and to file the attached
petition for writ of certiorari without prepayment of cost.

QUESTIONS PRESENTED

- 1.) Does petitioner meet the statutory requirements, to be deemed eligible, to proceed *in forma pauperis*?

LIST OF PARTIES

All parties appear in the caption of the cover page.

JURISDICTION

The jurisdiction of this Court is invoked under U.S.C.A. Const.

Amend. §§ 6, 14; 18 USCA § 3006A; Fed. Rules of Crim. Proc. Rule 44;

Petitioner has not previously been granted leave to proceed *in forma pauperis* by this Court. Petitioner's affidavit - declaration, in support of this motion is attached hereto as Appendix B.

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CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

United States Constitutional Amendment 6 provides in pertinent part:

"Entitles defendant in Federal court, who is unable to retain private counsel, in defense of a felony charge to services of an attorney appointed by the Court."

United States Constitutional Amendment 14 provides in pertinent part:

"No state[...] shall deprive any person of life liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

18 USCA § 3006A states in pertinent part:

"The term financially inability, as considered for the purpose of this plan, does not mean indigency. The defendant does not have to be destitute to be eligible for appointment of counsel. The judge *** need only be satisfied that the representation essential to an adequate defense is beyond the means of the defendant".

Federal Rule 44 states in pertinent part:

(a) Right to Appointed Counsel. A defendant who is unable to obtain counsel is entitled to have counsel appointed to represent the defendant at every stage of the proceeding from initial appearance through appeal, unless the defendant waives this right.

PETITIONER'S STATEMENT

1. While the ministerial function of financial data collection may at times be delegated to an outside entity, the ultimate obligation to make eligibility determinations rests with the Court.

(*Powel v Alabama*, 287 US 45, 72-73 (1932))

2. An integral component of the right to counsel is the right to Court appointed counsel for those unable to hire an attorney.

(*Gideon v Wainwright*, 372 US 335 (1963); *Argersinger v Hamlin*, 407 US 25 (1972) *Scott v Illinois*, 440 US 367 (1979))

3. 18 USCA 3006A specifies that: [t]he proper standard to be employed in determining eligibility to proceed *in forma pauperis* is financial inability to afford counsel not "indigency or destitution".

4. Petitioner, up to this point was represented by The Hiscock Legal Aid Society (David Clifford Hollant, Esq., of Counsel), 201 East 28th Street, Suite R, NY, New York

5. Once leave to appeal was denied by the Court of Appeals, I was informed by assigned counsel that they were closing my case file. All

other attempts to obtain counsel have gone unanswered. Therefore, I am forced to proceed *pro se*.

6. The total sum of petitioner's assets is viewed, and determined to be "insufficient" to retain counsel.

7. No individual is willing to help petitioner with legal costs.

8. Petitioner does not waive his right to counsel.

9. Petitioner is incarcerated at Attica Correctional Facility; Attica, New York.

CONCLUSION

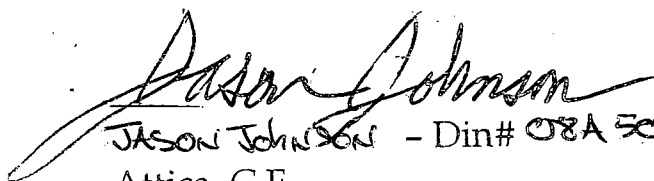
For the forgoing reasons, petitioner should be deemed eligible to proceed in forma pauperis with Court appointed counsel.

Wherefore, petitioner respectfully requests that he be permitted to proceed *in forma pauperis* before this Court; be excused from prepayment of costs pursuant to Rule 12.2 of this Court; be permitted to use 8 ½ by 11 inch paper, and as a confined inmate, without counsel, file one copy of the Writ pursuant to Rule 32.2.

I declare under penalty of perjury that the foregoing is true and correct. 28
U.S.C. § 1746.

Executed on: December 22, 2019

Respectfully submitted,


JASON JOHNSON - Din# 08A 5078
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Apndx. B

AFFIDAVIT OR DECLARATION IN SUPPORT OF MOTION TO PROCEED IN FORMA PAUPERIS.

I, JASON JOHNSON, 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 therefore; 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.⁽¹⁾ 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 or taxes or otherwise.

Income source	Average monthly amount during the past 12 months	Amount expected next month
Employment (Inmate program)	\$ <u>30</u>	\$ <u>30</u>
Self-employment	\$ <u>0</u>	\$ <u>0</u>
Income from real property (such as rental income)	\$ <u>0</u>	\$ <u>0</u>
Interest and dividends	\$ <u>0</u>	\$ <u>0</u>
Gifts	\$ <u>0</u>	\$ <u>0</u>
Alimony	\$ <u>0</u>	\$ <u>0</u>
Child support	\$ <u>0</u>	\$ <u>0</u>
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>0</u>	\$ <u>0</u>
Disability (such as social security, insurance payments)	\$ <u>0</u>	\$ <u>0</u>
Unemployment payments	\$ <u>0</u>	\$ <u>0</u>
Public-assistance (Such as welfare)	\$ <u>0</u>	\$ <u>0</u>
Other (specify): _____	\$ <u>0</u>	\$ <u>0</u>
 Total monthly income:	 \$ <u>12.00</u>	 \$ <u>12.00</u>

¹ My spouse has abandoned and resides on the other side of the country.

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
Superintendent of Attica C.F.	P.O. Box 149 Attica, N.Y. 14011	From 2017 to 2019 present	\$ 12.00 \$ \$

3. List your spouse's employment history.

N/A - Unknown

4. How much cash do you have? I have about \$15.00 in my inmate account.
Below, state any money you have in bank accounts or in any other financial institution.

Financial institution	Type of account	Amount you have
None	N/A	\$ 0
		\$
		\$

4. List the assets, and their values, which you own. Do not list clothing and ordinary household furnishings.

[] Home
Value None

[] Other real estate
Value None

[] Motor Vehicle #1
Year, make & model None
Value N/A

Motor Vehicle #2
Year, make & model None
Value N/A

[] Other assets
Description None
Value N/A

5. State every person, business, or organization owing you money, and the amount owed.

Person owing you money

None

Amount owed to you

\$ 0

\$ _____

6. State the persons who rely on you for support.

Name

Relation

Age

None

7. Estimate your average monthly expenses. Adjust any payments that are made weekly, biweekly, quarterly, or annually to show the monthly rate.

Rent or home-mortgage payment

\$ 0

(Include lot rented for mobile home)

Are real estate taxes included? ☐ yes ☐ no N/A

Is property insurance included? ☐ yes ☐ no N/A

Utilities (electric, heating fuel, water, sewer, and telephone)

\$ 0

Home maintenance (repairs and upkeep)

\$ 0

Food

\$ 30

Clothing

\$ 0

Laundry and dry-cleaning

\$ 6

Medical and dental expenses

\$ 0

Transportation (not including motor vehicle payments)

\$ 0

Recreation, entertainment, newspapers, magazines, etc.

\$ 0

Insurance (not deducted from wages or included in mortgage payments)

Homeowner's or renter's

\$ 0

Life

\$ 0

Health

\$ 0

Motor Vehicle

\$ 0

Other: _____

\$ 0

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Taxes (not deducted from wages or included in mortgage payments)
(specify): _____

\$ 0

Installment payments

Motor Vehicle

\$ 0

Credit card(s)

\$ 0

Department store(s)

\$ 0

Other: _____

\$ 0

Alimony, maintenance, and support paid to others

\$ 0

Regular expenses for operation of business, profession,
or farm (attach detailed statement)

\$ 0

Other (specify): U.S. Postal service
Personal hygiene

\$ 20

\$ 11

Total monthly expenses:

\$ 67

8. 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.

Loss of state program

9. Have you paid - or will you be paying - an attorney any money for service
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:

10. 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 [X] no

If yes, how much? \$0

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

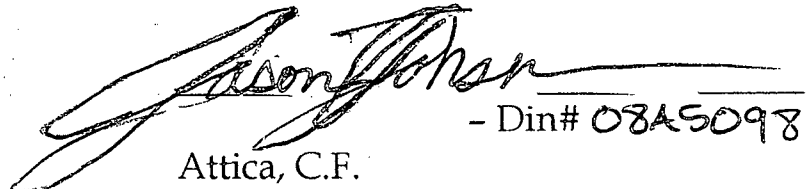
U.S. Postal service.

11. Provide any other information that will explain why you cannot pay the cost of this case.

Petitioner does not have the resources to pay costs of this case that are estimated at approximately \$200,000.⁰⁰ without printing, oral arguments(s), fees and expenses for proper representation by appropriate perspective private council.

I declare under the penalty of perjury that the foregoing is true and correct.
28 USC § 1746

Executed on: August 4, 2018



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**Additional material
from this filing is
available in the
Clerk's Office.**