

No. \_\_\_\_\_

IN THE  
**SUPREME COURT OF THE UNITED STATES**

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OSCAR IBARRA,

Petitioner,

vs.

NICK LUDWICK, Warden,

Respondent.

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**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 been incarcerated since November 23, 2011. Counsel has represented Petitioner *pro bono* during his federal proceedings. Petitioner has previously been found indigent by the Iowa District Court Polk County and the Iowa Court of Appeals. Leave to proceed *in forma pauperis* has not previously been sought. Petitioner's declaration in support of this Motion and Orders finding him indigent are attached.

PARRISH KRUIDENIER DUNN BOLES  
GRIBBLE GENTRY BROWN & BERGMANN, L.L.P.

By: Alfredo Parrish

**Alfredo Parrish**

*Counsel of Record*

2910 Grand Avenue

Des Moines, Iowa 50312

Telephone: (515) 284-5737

Facsimile: (515) 284-1704

Email: aparrish@parrishlaw.com

**Adam C. Witosky**

2910 Grand Avenue

Des Moines, Iowa 50312

Telephone: (515) 284-5737

Facsimile: (515) 284-1704

Email: awitosky@parrishlaw.com

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

I, Oscar Ibarra, 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>30</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Self-employment	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Income from real property (such as rental income)	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Interest and dividends	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Gifts	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Alimony	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Child Support	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Disability (such as social security, insurance payments)	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Unemployment payments	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Public-assistance (such as welfare)	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Other (specify): _____	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
<b>Total monthly income:</b>	\$ <u>30</u>	\$ <u>N/A</u>	\$ <u>0</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
IA State Penitentiary	2111 3806th Ave Fort Madison IA, 52627	01/01/19 - 08/01/19	\$ 30
			\$
			\$
			\$

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	\$ 0	\$ N/A
N/A	\$ 0	\$ N/A
N/A	\$ 0	\$ 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

Other real estate  
Value 0

Motor Vehicle #1  
Year, make & model N/A  
Value 0

Motor Vehicle #2  
Year, make & model N/A  
Value 0

Other assets  
Description N/A  
Value 0

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>0</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		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ <u>0</u>	\$ <u>N/A</u>
Home maintenance (repairs and upkeep)	\$ <u>0</u>	\$ <u>N/A</u>
Food	\$ <u>0</u>	\$ <u>N/A</u>
Clothing	\$ <u>0</u>	\$ <u>N/A</u>
Laundry and dry-cleaning	\$ <u>0</u>	\$ <u>N/A</u>
Medical and dental expenses	\$ <u>0</u>	\$ <u>N/A</u>

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

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.

Incarcerated & unemployed.

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

Executed on: 11-30, 2019

  
(Signature)

IN THE IOWA DISTRICT COURT IN AND FOR POLK COUNTY

State of Iowa  
Plaintiff

VS

Defendant \*DO NOT FOLD, BEND OR ROLL\*

Case Number: FE 245573

Date: 4-11-11

\*\*DO NOT FOLD, BENT OR ROLL THIS PAPER\*\*

FINANCIAL AFFIDAVIT / APPLICATION FOR APPOINTMENT OF COUNSEL / ORDER

Name: Oscar Ibarra

D.O.B.

Home Phone

Mailing

Address:

Street

City

State

Zip

Cell Phone

Pending Charges: \_\_\_\_\_

Jail  yes  no

Do you have a job? Yes Who do you work for? \_\_\_\_\_

How much do you earn before taxes or other deductions? \_\_\_\_\_ Per hour/month/year (circle one)

Do you have a spouse who lives with you? \_\_\_\_\_ Number of children who live with you \_\_\_\_\_

Does anyone else who lives with you have a job? \_\_\_\_\_ How much do they earn \_\_\_\_\_ Per hr/mo/yr

List all other income to you or any persons living with you, including ADC, FIP, Welfare, Relief, Food Stamps, SSI, Social Security, Unemployment, Retirement, or other income: \_\_\_\_\_

List what you own, including houses, money in banks or cash, retirement, vehicles, boats, or anything else with a value of more than \$100: \_\_\_\_\_

List amounts you owe for mortgages, car loans, credit cards, or other bills: \_\_\_\_\_

I understand I may be required to repay the State for my attorney fees and costs, I may be required to sign a wage assignment, and I must report any changes in this information. I promise under penalty of perjury the statements I make in this application are true and I am unable to pay an attorney.

Date: 4-11-11

Signature: Oscar Ibarra

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ORDER

5TH DISTRICT COURT

The Court finds as follows:

- Not eligible for court-appointed counsel.
- Income at or below 125% of guidelines, Defendant unable to pay an attorney
- Income between 125% and 200% of guidelines, not appoint would cause substantial hardship.
- Income over 200% of guidelines, felony charge, not appointing would cause substantial hardship
- PD declines appointment due to conflict with co-defendant(s)
- JPD declines appointment due to conflict with co-defendant(s)

In parole violations, additional findings are required for appointment of counsel, Iowa Code sec. 908.2A(c).

Application is: Denied Approved PD is appointed.

If attorney is not State Public Defender Office or organization designated by State Public Defender, attorney is  contract attorney  is not contract attorney and qualified contract attorney is not available. "Contract attorney" means attorney on contract list for this county or, in appellate cases, with an appellate contract.

Date 4-11-11

JUDGE OF THE FIFTH JUDICIAL DISTRICT

Conflicts of interest, + the Juve PD and 2nd P.D.

Request an Investigator

✓ on  
Fax  
Confirm

## IN THE IOWA DISTRICT COURT IN AND FOR POLK COUNTY

STATE OF IOWA,  Plaintiff,  vs.  OSCAR IBARRA,  Defendant.	CRIMINAL NO: FECR245570    <b>ORDER GRANTING DEFENDANT'S APPLICATION FOR PAYMENT OF APPELLATE APPENDIX AND FINAL BRIEFS AT STATE EXPENSE</b>
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NOW on this 13 day of September, 2012 Defendant having filed an Application for Payment of Appellate Appendix and Final Briefs at State Expense, the Court having reviewed said Application and being fully advised in its premises, **FINDS** that Defendant's Application is proper and should be granted.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Defendant's Application for Payment of Appellate Appendix and Final Briefs at State Expense is hereby granted.

Jeanne A. Zanetti  
JUDGE – Fifth Judicial District of Iowa

## Copies to:

Mr. Alfredo Parrish  
Attorney at Law  
2910 Grand Avenue  
Des Moines, Iowa 50312  
Telephone: 515-284-5737  
Facsimile: 515-284-1704  
ATTORNEY FOR DEFENDANT

Ms. Megan Hague  
Court Reporter

Mr. John Sarcone  
Assistant Polk County Attorney  
206 Sixth Avenue  
Des Moines, Iowa 50309  
Telephone: 515-286-3737  
Facsimile: 515-286-3428  
ATTORNEY FOR PLAINTIFF

**Polk County Courthouse  
Des Moines, Iowa 50309**