

No. _____

In the
SUPREME COURT OF THE UNITED STATES

BELKIS SOCA-FERNANDEZ,

and

DAVID SOSA-BALADRON,

Petitioners,

-v-

UNITED STATES OF AMERICA,
Respondent.

On Petition for Writ of Certiorari to
The United States Court of Appeals
For the Sixth Circuit

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

BRITT COBB (P69556)
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Petitioners, Belkis Soca-Fernandez and David Sosa-Baladron, respectfully request this Honorable Court, pursuant to Supreme Court Rule 39, for leave to proceed *in forma pauperis* so that they may file the accompanying Petition for Writ of Certiorari with this Court.

The Petitioners are husband/wife and were co-defendants in a criminal case. Separate judgments entered against them in the district court. Both have been incarcerated since March 2017. The facts and issues raised by both Petitioners in the Sixth Circuit Court of Appeals were identical, sometimes overlapping, or closely related. Petitioners' cases in the Sixth Circuit Court of Appeals were consolidated and the Opinion sought to be reviewed here was consolidated and entered as to both Petitioners. Petitioners are filing a single petition pursuant to Rule 12(4) of the Supreme Court Rules.

The Petitioners are indigent and are currently in the custody of the United States Bureau of Prisons serving lengthy prison terms where they are not receiving any income.

Undersigned counsel, Britt Cobb, was retained in the trial court for Ms. Soca-Fernandez. Mr. Sosa-Baladron also had retained counsel. Petitioners were tried together in the United States District Court, Western District of Michigan, Southern Division on numerous counts related to medical billing fraud. Both were convicted after seven days of trial. Ms. Soca-Fernandez was sentenced to 135 months imprisonment, and Mr. Sosa-Baladron to 120 months imprisonment. Petitioners have two young children. They are being cared for by a family member.

Ms. Soca-Fernandez moved to proceed *in forma pauperis* in the United States Court of Appeals for the Sixth Circuit. Counsel was appointed under provisions of the Criminal Justice Act, 18 U.S.C. § 3006A(d)(6). Appendix A. However, due to concerns the family had about the complexity of the appeal, the undersigned filed an appearance for Ms. Soca-Fernandez and

represented her in the Sixth Circuit at a greatly reduced rate financed by the family member caring for her children.

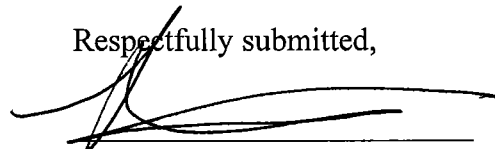
Ms. Soca-Fernandez asked the undersigned to file a Petition for Writ of Certiorari to the Court. The undersigned agreed to do so *pro bono* because the financial strain on the family members caring for her children has become too great. Ms. Soca-Fernandez herself is indigent. A financial affidavit is attached. Appendix B.

Mr. Sosa-Baladron was appointed counsel under the Criminal Justice Act in the Sixth Circuit. Appendix C. Appointed counsel completed representation in the Sixth Circuit Court of Appeals. Mr. Sosa-Baladron relayed to counsel that appointed counsel was not interested in filing a petition with the Court. At the request of Mr. Sosa-Baladron, the undersigned agreed to file a combined petition that includes Mr. Sosa-Baladron due to the fact that the issues in the case are substantially the same.

The undersigned is admitted to practice in the Court and was sworn in on January 19, 2016. Because the Petitioners have been incarcerated for more than three years and have no income, they are indigent and request to proceed *in forma pauperis*.

Dated: May 29, 2020

Respectfully submitted,



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Appendix A

No. 17-2032

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

V.

BELKIS SOCA-FERNANDEZ,

Defendant-Appellant.

FILED

Mar 19, 2018

DEBORAH S. HUNT, Clerk

O R D E R

Defendant, Belkis Soca-Fernandez, appeals the judgment entered following her jury conviction for one count of conspiracy to commit mail fraud, eleven counts of health care fraud, and six counts of mail fraud. Soca-Fernandez's retained counsel moves this court for leave to withdraw, and Soca-Fernandez moves for appointed counsel under 18 U.S.C. § 3006A and for leave to proceed *in forma pauperis*, Fed. R. App. P. 24(a)(5). The motions are addressed by a single judge of the court. 6 Cir. R. 27(c).

Soca-Fernandez has already paid the appellate filing fee in full. However, in her now second motion for pauper status before this court, she has submitted an updated financial affidavit as required by Federal Rule of Appellate Procedure 24 showing that she has no income and is a pauper. She is thus entitled to proceed on appeal *in forma pauperis*; a defendant need not be completely destitute to proceed as a pauper. See *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339 (1948); *Foster v. Cuyahoga Dep't of Health & Human Servs.*, 21 F. App'x 239, 240 (6th Cir. 2001).

17-2032

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Accordingly, retained counsel's motion to withdraw is **GRANTED**. Soca-Fernandez's motions for leave to proceed *in forma pauperis* and for appointed counsel also are **GRANTED**. The clerk shall promptly appoint counsel for her under the Criminal Justice Act, 18 U.S.C. § 3006A, *et seq.*

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk

Appendix B

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

I, Belkis Soca-Fernandez, 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	\$ _____	\$ _____	\$ _____	\$ _____
Self-employment	\$ _____	\$ _____	\$ _____	\$ _____
Income from real property (such as rental income)	\$ _____	\$ _____	\$ _____	\$ _____
Interest and dividends	\$ _____	\$ _____	\$ _____	\$ _____
Gifts	\$ _____	\$ _____	\$ _____	\$ _____
Alimony	\$ _____	\$ _____	\$ _____	\$ _____
Child Support	\$ _____	\$ _____	\$ _____	\$ _____
Retirement (such as social security, pensions, annuities, insurance)	\$ _____	\$ _____	\$ _____	\$ _____
Disability (such as social security, insurance payments)	\$ _____	\$ _____	\$ _____	\$ _____
Unemployment payments	\$ _____	\$ _____	\$ _____	\$ _____
Public-assistance (such as welfare)	\$ _____	\$ _____	\$ _____	\$ _____
Other (specify): _____	\$ _____	\$ _____	\$ _____	\$ _____
Total monthly income:	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>

Both my spouse and I
have been incarcerated since
March 2017.

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
<u>/</u>			\$ <u> </u>
			\$ <u> </u>
			\$ <u> </u>

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
<u>/</u>			\$ <u> </u>
			\$ <u> </u>
			\$ <u> </u>

4. How much cash do you and your spouse have? \$
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
<u>checking</u>	\$ <u>30.00</u>	\$ <u> </u>
	\$ <u> </u>	\$ <u> </u>
	\$ <u> </u>	\$ <u> </u>

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

☐ Home
Value

N/A
☐ Other real estate
Value

☐ Motor Vehicle #1
Year, make & model
Value

☐ Motor Vehicle #2
Year, make & model
Value

☐ Other assets
Description
Value

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>NONE</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>NONE</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)	\$ _____	\$ _____
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)	\$ _____	\$ _____
Home maintenance (repairs and upkeep)	\$ _____	\$ _____
Food	\$ _____	\$ _____
Clothing	\$ _____	\$ _____
Laundry and dry-cleaning	\$ _____	\$ _____
Medical and dental expenses	\$ _____	\$ _____

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

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

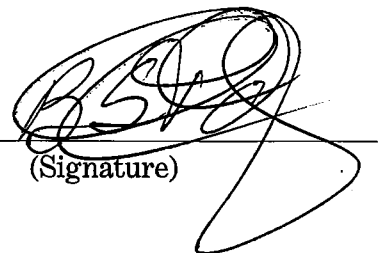
If yes, how much? _____

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

Executed on: March 5, 2020


(Signature)

Appendix C

No. 17-1987

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

DAVID SOSA-BALADRON,

Defendant-Appellant.

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FILED

Feb 15, 2018

DEBORAH S. HUNT, Clerk

O R D E R

Defendant, David Sosa-Baladron, appeals the judgment entered following his jury conviction for one count of conspiracy to commit mail fraud, eleven counts of health care fraud, and six counts of mail fraud. Sosa moves this court for leave to proceed *in forma pauperis*. Fed. R. App. P. 24(a)(5). The motion is addressed by a single judge of the court. 6 Cir. R. 27(c).

Sosa has already paid the appellate filing fee in full. However, he has submitted a financial affidavit as required by Federal Rule of Appellate Procedure 24 showing that he has no income and is a pauper. He is thus entitled to proceed on appeal *in forma pauperis*; a defendant need not be completely destitute to proceed as a pauper. See *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339 (1948); *Foster v. Cuyahoga Dep't of Health & Human Servs.*, 21 F. App'x 239, 240 (6th Cir. 2001).

Accordingly, the motion for leave to proceed *in forma pauperis* is **GRANTED**. The clerk shall appoint counsel for Sosa under the Criminal Justice Act, 18 U.S.C. § 3006A, *et seq.*

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk