

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

IN THE  
SUPREME COURT OF THE UNITED STATES

BARRY ARKIM PETITIONER *Pro se*  
(Your Name)

VS.

JOSEPH NOETH 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*.

Please check the appropriate boxes:

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

Supreme Court, County of Erie  
Appellate Division, Fourth Department

☐ 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.

☒ Petitioner's affidavit or declaration is **not** attached because the court below appointed counsel in the current proceeding, and:

☒ The appointment was made under the following provision of law: Pursuant to Article 11 of the Civil Practice Law and Rules or

☒ a copy of the order of appointment is appended.

Barry Arkim  
(Signature)  
JUN 10 2020  
OFFICE OF THE CLERK  
SUPREME COURT, U.S.

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

I, Barry Arkim, 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<br>the past 12 months |                | Amount expected<br>next month |                |
|--|---|----------------|-------------------------------|----------------|
|  | You   | Spouse         | You                           | Spouse         |
| Employment   | \$ <u>NONE</u>                                      | \$ <u>NONE</u> | \$ <u>NONE</u>                | \$ <u>NONE</u> |
| Self-employment  | \$ <u>NONE</u>                                      | \$ <u>NONE</u> | \$ <u>NONE</u>                | \$ <u>NONE</u> |
| Income from real property<br>(such as rental income)                       | \$ <u>NONE</u>                                      | \$ <u>NONE</u> | \$ <u>NONE</u>                | \$ <u>NONE</u> |
| Interest and dividends   | \$ <u>NONE</u>                                      | \$ <u>NONE</u> | \$ <u>NONE</u>                | \$ <u>NONE</u> |
| Gifts  | \$ <u>NONE</u>                                      | \$ <u>NONE</u> | \$ <u>NONE</u>                | \$ <u>NONE</u> |
| Alimony  | \$ <u>NONE</u>                                      | \$ <u>NONE</u> | \$ <u>NONE</u>                | \$ <u>NONE</u> |
| Child Support  | \$ <u>NONE</u>                                      | \$ <u>NONE</u> | \$ <u>NONE</u>                | \$ <u>NONE</u> |
| Retirement (such as social<br>security, pensions,<br>annuities, insurance) | \$ <u>NONE</u>                                      | \$ <u>NONE</u> | \$ <u>NONE</u>                | \$ <u>NONE</u> |
| Disability (such as social<br>security, insurance payments)                | \$ <u>NONE</u>                                      | \$ <u>NONE</u> | \$ <u>NONE</u>                | \$ <u>NONE</u> |
| Unemployment payments  | \$ <u>NONE</u>                                      | \$ <u>NONE</u> | \$ <u>NONE</u>                | \$ <u>NONE</u> |
| Public-assistance<br>(such as welfare)                                     | \$ <u>NONE</u>                                      | \$ <u>NONE</u> | \$ <u>NONE</u>                | \$ <u>NONE</u> |
| Other (specify): <u>NONE</u>   | \$ <u>NONE</u>                                      | \$ <u>NONE</u> | \$ <u>NONE</u>                | \$ <u>NONE</u> |
| <b>Total monthly income:</b>   | \$ <u>NONE</u>                                      | \$ <u>NONE</u> | \$ <u>NONE</u>                | \$ <u>NONE</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 |
|-------------|-------------|---------------------|-------------------|
| <u>NONE</u> | <u>NONE</u> | <u>NONE</u>         | <u>\$ NONE</u>    |
| <u>NONE</u> | <u>NONE</u> | <u>NONE</u>         | <u>\$ NONE</u>    |
| <u>NONE</u> | <u>NONE</u> | <u>NONE</u>         | <u>\$ NONE</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>NONE</u> | <u>NONE</u> | <u>NONE</u>         | <u>\$ NONE</u>    |
| <u>NONE</u> | <u>NONE</u> | <u>NONE</u>         | <u>\$ NONE</u>    |
| <u>NONE</u> | <u>NONE</u> | <u>NONE</u>         | <u>\$ NONE</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>NONE</u>                                 | <u>\$ NONE</u>  | <u>\$ NONE</u>         |
| <u>NONE</u>                                 | <u>\$ NONE</u>  | <u>\$ NONE</u>         |
| <u>NONE</u>                                 | <u>\$ NONE</u>  | <u>\$ NONE</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 NONE

☐ Other real estate  
Value NONE

☐ Motor Vehicle #1  
Year, make & model NONE  
Value NONE

☐ Motor Vehicle #2  
Year, make & model NONE  
Value NONE

☐ Other assets  
Description NONE  
Value NONE

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 |
|---------------------------------------|--------------------|----------------------------|
| NONE                                  | \$NONE             | \$NONE                     |
| NONE                                  | \$NONE             | \$NONE                     |
| NONE                                  | \$NONE             | \$NONE                     |

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  |
|------|--------------|------|
| NONE | NONE         | NONE |
| NONE | NONE         | NONE |
| NONE | NONE         | NONE |

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<br>(include lot rented for mobile home)                               | \$NONE | \$NONE      |
| Are real estate taxes included? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |        |             |
| Is property insurance included? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |        |             |
| Utilities (electricity, heating fuel,<br>water, sewer, and telephone)                               | \$NONE | \$NONE      |
| Home maintenance (repairs and upkeep)   | \$NONE | \$NONE      |
| Food  | \$NONE | \$NONE      |
| Clothing  | \$NONE | \$NONE      |
| Laundry and dry-cleaning  | \$NONE | \$NONE      |
| Medical and dental expenses   | \$NONE | \$NONE      |

|  | You            | Your spouse    |
|--|----------------|----------------|
| Transportation (not including motor vehicle payments)  | \$ <u>NONE</u> | \$ <u>NONE</u> |
| Recreation, entertainment, newspapers, magazines, etc.   | \$ <u>NONE</u> | \$ <u>NONE</u> |
| Insurance (not deducted from wages or included in mortgage payments)                           |                |                |
| Homeowner's or renter's  | \$ <u>NONE</u> | \$ <u>NONE</u> |
| Life   | \$ <u>NONE</u> | \$ <u>NONE</u> |
| Health   | \$ <u>NONE</u> | \$ <u>NONE</u> |
| Motor Vehicle  | \$ <u>NONE</u> | \$ <u>NONE</u> |
| Other: <u>NONE</u>   | \$ <u>NONE</u> | \$ <u>NONE</u> |
| Taxes (not deducted from wages or included in mortgage payments)                               |                |                |
| (specify): <u>NONE</u>   | \$ <u>NONE</u> | \$ <u>NONE</u> |
| Installment payments   |                |                |
| Motor Vehicle  | \$ <u>NONE</u> | \$ <u>NONE</u> |
| Credit card(s)   | \$ <u>NONE</u> | \$ <u>NONE</u> |
| Department store(s)  | \$ <u>NONE</u> | \$ <u>NONE</u> |
| Other: <u>NONE</u>   | \$ <u>NONE</u> | \$ <u>NONE</u> |
| Alimony, maintenance, and support paid to others   | \$ <u>NONE</u> | \$ <u>NONE</u> |
| Regular expenses for operation of business, profession,<br>or farm (attach detailed statement) | \$ <u>NONE</u> | \$ <u>NONE</u> |
| Other (specify): <u>NONE</u>   | \$ <u>NONE</u> | \$ <u>NONE</u> |
| <b>Total monthly expenses:</b>   | \$ <u>NONE</u> | \$ <u>NONE</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.

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.

Petitioner has been in the custody of the New York State Department of Corrections since the day of sentencing, serving his sentence of 75 years to life imprisonment. I have ~~no~~ money, family to help me.

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

Executed on: June 1, 2020

Bobby Atkins  
(Signature)

SUPREME COURT OF THE STATE OF NEW YORK  
Appellate Division, Fourth Judicial Department

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KAH 18-01879

THE PEOPLE OF THE STATE OF NEW YORK EX REL.,  
BARRY ARKIM, ALSO KNOWN AS EDWARD MASON,  
PETITIONER-APPELLANT,  
Inmate # 91-B-0146 SING SING CORRECTIONAL FACILITY

V

JOSEPH NOETH, SUPERINTENDENT, ATTICA CORRECTIONAL FACILITY,  
RESPONDENT-APPELLANT.

Index No: I-2018-000064

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An application having been made by appellant for an order granting leave to prosecute an appeal from an order of the Supreme Court, Erie County, dated July 27, 2018, and entered July 31, 2018, as a poor person, and for other relief,

It is hereby ORDERED that said application is granted to the extent that the appeal herein may be prosecuted upon one original record as defined by 22 NYCRR 1250.9 (a)(4)(ii), an original and five hard copies and one digital copy of appellant's brief, reproduced pursuant to CPLR 5529, and

TIMOTHY P. MURPHY, ESQ.  
LEGAL AID BUREAU OF BUFFALO  
290 MAIN ST STE 350  
BUFFALO NY 14202

is hereby assigned as counsel to conduct the appeal; and

It is further ORDERED that the Clerk of Erie County is hereby directed to provide TIMOTHY P. MURPHY, ESQ. with copies of all papers and transcripts of stenographic or audiotaped minutes, if any, of the proceedings upon which the appeal is based.

Memorandum: Pursuant to 22 NYCRR 1250.9 this appeal is to be perfected on or before February 6, 2019.