

No. 20-

In The
SUPREME COURT OF THE UNITED STATES

Ihab Masalmani,
Petitioner,

v.

State of Michigan,
Respondent.

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

Petitioner Ihab Masalmani, through his appointed counsel, the State Appellate Defender Office (“SADO”), by Assistant Defenders Tina Olson and Erin Van Campen, respectfully asks this Honorable Court for leave to proceed *in forma pauperis* so that he may file the concurrently submitted Petition for Writ of Certiorari with this Court. The state trial court found Mr. Masalmani to be indigent and appointed SADO, Michigan’s state-wide appellate public defender office, to represent Mr. Masalmani on appeal following his 2010 convictions. (See attached order). SADO has continuously represented Mr. Masalmani since its appointment. Mr. Masalmani remains indigent and has been incarcerated in connection with this matter since 2010. (See Mr. Masalmani’s attached affidavit of indigency).

Tina N. Olson*
Erin Van Campen
Assistant Defenders
State Appellate Defender Office
200 North Washington, Suite 250
Lansing, MI 48913
(313) 256-9833
tolson@Sado.org

*Counsel of Record

ATTACHMENT A

Order of Appointment

STATE OF MICHIGAN 16th JUDICIAL CIRCUIT MACOMB COUNTY	CLAIM OF APPEAL AND ORDER APPOINTING COUNSEL	CASE NO. AND SUFFIX 09-5244 FC
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Court Address
40 NORTH MAIN STREET MT CLEMENS, MI 48043

Court Telephone No
586-468-5242

People of THE STATE OF MICHIGAN

Date of Birth, Address, and inmate number (if known)
CHARLES EGELER RECEPTION & GUIDANCE CEI 12-25-1991
 3855 COOPER STREET 783743
 JACKSON MI 49201-7518

Defendant Name, Last First Middle
MASALMANI IHAB

Offense Information							Terms of Incarceration										Intermediate Sanctions					
Date	Description	PACC Code	H	C	A	S	Minimum			Maximum			Probation				R		F		O	
							Y	M	D	Y	M	D	K	P	J	Y	M	D				
08-09-2009	HOMICIDE/FELONY MURDER	750.316-B								LIFE					X							
08-09-2009	CARJACKING	750.529A					25			50					X						X	
08-09-2009	CARJACKING	750.529A		X			25			50					X							
08-09-2009	KIDNAPPING	750.349					25			50					X							
08-09-2009	KIDNAPPING	750.349		X			25			50					X							
08-09-2009	LARCENY FROM THE PERSON	750.357					5			10					X							
08-09-2009	WEAPONS/FELONY FIREARM	750.227B-A					2			2				X	X							

H=Habitual C=Conspiracy A=Attempt S=Solicitation Y=Year M=Month D=Day K=Consecutive P=Prison J=Jail R=Restitution F=Fine O=Other

The defendant claims an appeal from a final judgment or order entered on 11-04-2010 in the 16th Circuit Court, MACOMB County, Michigan by Judge DIANE DRUZINSKI 48507. Copies of the final judgment or order being appealed and docket entries are attached for the Court of Appeals, appointed counsel, and Michigan Appellate Assigned Counsel System.

On 11-10-2010 the defendant filed a request for appointment of counsel and a declaration of indigency.

IT IS ORDERED:

STATE APPELLATE DEFENDER OFFICE

Name of Appellate Counsel

DETROIT, MI 48226

City, State, Zip

645 GRISWOLD, PENOBSCOT BLDG. SUITE 3300
Address

313-256-9833
Telephone No.

1
Bar No.

is appointed counsel for the defendant in post-conviction proceedings. If appointed counsel cannot or will not accept this appointment, counsel shall notify the court immediately.

The court reporter(s)/recorder(s) shall file with the trial court clerk the transcripts indicated below and any other transcripts requested by counsel in this case not previously transcribed. Transcripts shall be filed within 28 days for pleas or 91 days for trials from the date ordered or requested [MCR 7.210(B)]. Reporter(s)/recorder(s) shall be paid as provided by law.

TRANSCRIPTS ORDERED	REPORTER/RECORDER NAME	OTHER DESCRIPTION	NUMBER	PROCEEDING DATE
SENTENCE	REBECCA RUSSELL		CSR 4105	11-04-2010
JURY TRIAL	REBECCA RUSSELL		CSR 4105	09-08-2010
JURY TRIAL	REBECCA RUSSELL		CSR 4105	09-09-2010
JURY TRIAL	REBECCA RUSSELL		CSR 4105	09-10-2010
JURY TRIAL	REBECCA RUSSELL		CSR 4105	09-13-2010
JURY TRIAL	REBECCA RUSSELL		CSR 4105	09-14-2010
JURY TRIAL	REBECCA RUSSELL		CSR 4105	09-21-2010
JURY TRIAL	REBECCA RUSSELL		CSR 4105	09-22-2010
JURY TRIAL	REBECCA RUSSELL		CSR 4105	09-23-2010
JURY TRIAL	REBECCA RUSSELL		CSR 4105	09-24-2010
JURY TRIAL	REBECCA RUSSELL		CSR 4105	09-28-2010
JURY TRIAL	REBECCA RUSSELL		CSR 4105	09-29-2010
JURY TRIAL	REBECCA RUSSELL		CSR 4105	09-30-2010
JURY TRIAL	REBECCA RUSSELL		CSR 4105	10-01-2010

RECEIVED

DEC 01 2010

APPELLATE DEFENDER OFFICE

The clerk shall immediately send to counsel a copy of the transcripts ordered above or requested by counsel as they become available. The clerk shall also forward documents upon request by counsel. [MCR 6.433]

11-29-10

Date

MARK SWITALSKI
Judge

28201
Bar No.

CERTIFICATE OF MAILING

I certify that on this date I mailed a copy of this claim of appeal to appointed counsel, defendant, court reporter(s)/recorder(s), prosecutor, Court of Appeals, and Michigan Appellate Assigned Counsel System (MAACS). I also mailed a copy of the final judgment or order being appealed and docket entries to appointed counsel, the Court of Appeals, and MAACS. I also mailed a copy of the defendant's request for appointment of counsel to appointed counsel, the prosecutor, and MAACS.

11-29-10

Date

James Progo
Signature

ORDER TO REIMBURSE COSTS OF ASSIGNED APPELLATE COUNSEL

THE COURT ORDERS that Defendant reimburse Macomb County for the costs incurred in his/her appellate defense.

11-29-10

Date

MARK SWITALSKI, Chief Judge

ATTACHMENT B

Affidavit of Indigency

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

I, Shab Hashman, 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>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Self-employment	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Income from real property (such as rental income)	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Interest and dividends	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Gifts	\$ <u>600</u>	\$ <u>0</u>	\$ <u>30</u>	\$ <u>0</u>
Alimony	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Child Support	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Disability (such as social security, insurance payments)	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Unemployment payments	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Public-assistance (such as welfare)	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Other (specify): _____	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Total monthly income:	\$ <u>600</u>	\$ <u>0</u>	\$ <u>30</u>	\$ <u>0</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>non</u>			\$ _____
<u>NA</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>NA</u>			\$ _____
			\$ _____
			\$ _____

4. How much cash do you and your spouse have? \$ 3500
Below, state any money you or your spouse have in bank accounts or in any other financial institution. MDOL

Type of account (e.g., checking or savings)	Amount you have	Amount your spouse has
<u>prisoner</u>	\$ <u>35.00</u>	\$ <u>0</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 _____

☐ 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
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____

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
_____	_____	_____
_____	_____	_____
_____	_____	_____

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>0</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>NA</u>
Home maintenance (repairs and upkeep)	\$ <u>0</u>	\$ <u>0</u>
Food	\$ <u>0</u>	\$ <u>0</u>
Clothing	\$ <u>0</u>	\$ <u>0</u>
Laundry and dry-cleaning	\$ <u>0</u>	\$ <u>0</u>
Medical and dental expenses	\$ <u>0</u>	\$ <u>0</u>

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ <u>0</u>	\$ <u>0</u>
Recreation, entertainment, newspapers, magazines, etc.	\$ <u>0</u>	\$ <u>0</u>
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ <u>0</u>	\$ <u>0</u>
Life	\$ <u>0</u>	\$ <u>0</u>
Health	\$ <u>0</u>	\$ <u>0</u>
Motor Vehicle	\$ <u>0</u>	\$ <u>0</u>
Other: _____	\$ <u>0</u>	\$ <u>0</u>
Taxes (not deducted from wages or included in mortgage payments)		
(specify): _____	\$ <u>0</u>	\$ <u>0</u>
Installment payments		
Motor Vehicle	\$ <u>0</u>	\$ <u>0</u>
Credit card(s)	\$ <u>0</u>	\$ <u>0</u>
Department store(s)	\$ <u>0</u>	\$ <u>0</u>
Other: _____	\$ <u>0</u>	\$ <u>0</u>
Alimony, maintenance, and support paid to others	\$ <u>0</u>	\$ <u>0</u>
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ <u>0</u>	\$ <u>0</u>
Other (specify): _____	\$ <u>0</u>	\$ <u>0</u>
Total monthly expenses:	\$ <u>0</u>	\$ <u>0</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? NO

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've been incarcerated continuously since 2009

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

Executed on: 11 20, 2020

Shah Maslamani
(Signature)