

NO. _____

IN THE

SUPREME COURT OF THE UNITED STATES

GONZALO CURIEL, PETITIONER

v.

STATE OF CALIFORNIA, RESPONDENT

ON THE PETITION FOR WRIT OF CERTIORARI
TO THE COURT OF APPEAL OF THE STATE OF CALIFORNIA,
SIXTH APPELLATE DISTRICT

MOTION FOR LEAVE TO PROCEED
IN FORMA PAUPERIS

ARTHUR DUDLEY
California State Bar Number 056921
PAGE & DUDLEY
Attorneys at Law
605 Center Street
Santa Cruz, California 95060-3804
(831) 429-9966
(831) 427-2132 (fax)
adudley@psdlaw.com (email)

Counsel of Record for Petitioner
GONZALO CURIEL

TO THE HONORABLE CHIEF JUSTICE OF THE SUPREME COURT OF THE UNITED STATES, AND TO THE HONORABLE ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES:

Pursuant to Rule 39 of the Rules of the Supreme Court of the United States, petitioner Gonzalo Curiel respectfully requests leave to file a petition for writ of certiorari in forma pauperis.

The declaration in support of this motion is attached hereto.

In light of the clear showing of indigency, as evidenced in the attached declaration, petitioner respectfully requests leave to proceed in forma pauperis in this court.

Respectfully submitted,



ARTHUR DUDLEY
Attorney for Petitioner
Gonzalo Curiel

Dated: March 27, 2021

DECLARATION IN SUPPORT OF MOTION
TO PROCEED IN FORMA PAUPERIS ON
PETITION FOR WRIT OF CERTIORARI
(Rule 39 of the Rules of the Supreme Court
of the United States)

I, Gonzalo Curiel, declare as follows:

I am the petitioner named in the above-entitled case. My date of birth is February 23, 1998. At the time of my arrest in connection events pertinent to this case which occurred on or about December 11, 2015, I was 17 years old.

On July 11, 2018, I was sentenced on two counts of murder with special circumstances (counts 1 and 2) and received as to those two counts two life sentences without possibility of parole.¹ As to two torture convictions pertaining to the two murder victims involved in counts 1 and 2, two separate life sentences were imposed on me but were stayed pursuant to the multiple punishment prohibitions contained in section 654 of the California Penal Code. As to count 6, a torture conviction as to a victim who survived, I received a life sentence which is to be served consecutive to the life without possibility of parole sentences imposed on counts 1 and 2. As to count 3, a conviction of felony child abuse which pertained to the same victim of the torture conviction in count 6, a six year aggravated term was imposed on me but was stayed pursuant to the multiple punishment prohibitions contained in section 654 of the California Penal Code, and a three year great bodily injury enhancement under subdivision (a) of section 12022.7 of the California Penal Code was imposed against me but

1. Due to a legislative enactment that occurred in State of California after the commission of the crimes charged in my case, I am now entitled to a parole hearing during the 25th year of my incarceration. (See California Penal Code, section 3051, subdivision (b)(4); see also People v. Ochoa, 53 Cal.App.5th 841, 850 (2020).)

it also was stayed pursuant to the multiple prohibitions contained in section 654 of the California Penal Code.

I am currently housed at the California Health Care Facility in Stockton, California. Corcoran State Prison in Corcoran, California. My current parole eligibility date is not until October 2039.

In support of my motion to proceed on a petition for writ of certiorari without being required to prepay fees, costs or give security therefor, I state that because of my poverty, I am unable to pay the costs of such a proceeding or to give security therefor.

I further swear that in the state trial court in which my criminal case arose, I requested, and received, the appointment of counsel to represent me at no cost based upon the fact that I was without funds to defend the state trial court proceedings. This appointment of counsel was made pursuant to the provisions of section 27706 et seq. of the California Government Code. A copy of the court minute orders, dated January 8, 2016, and January 20, 2016, reflecting this appointment of counsel is attached hereto. I have continuously been in custody since on or about December 11, 2015.

Also, attached hereto is my financial declaration in support of my motion for leave to proceed *in forma pauperis*.

I believe that based upon the issues raised in the petition for writ of certiorari I am entitled to redress.

In brief, without in any way admitting guilt to any of the charges against me, the facts as presented at trial showed that I and a woman by the name of Tami Huntsman over a period

of several months in the year 2015 inflicted serious physical injuries upon, and starved, three child who were approximately three, six and nine years old as a result of which the three year old child and the six year old child died and the nine year old child was very close to death.

The issues which I desire to present in the petition for writ of certiorari, which pertained to illegal searches and seizures in the finding of the deceased bodies of the three old child and the six year old child, are as follows:

1. In order to legally apply the "inevitable discovery rule" to uphold an otherwise illegal search and seizure it is necessary for the prosecution to prove that the alleged alternative police conduct was an ongoing legitimate investigation that was simultaneously occurring at the time that the improper conduct took place and had brought the police to the brink of discovering the disputed evidence when that misconduct occurred.

2. It is improper to apply the "inevitable discovery rule" to uphold an otherwise illegal warrantless search and seizure where the purported claim of inevitable discovery is that the police hypothetically could have sought and obtained a search warrant at some later date after the occurrence of the misconduct that could have allowed the police to conduct that search and seizure even though the police at the time of the illegal warrantless search and seizure were not even thinking of obtaining, or even trying to obtain, a search warrant.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on March 23, 2021, in the San Joaquin County, State of California.

Gonzalo Curiel
Gonzalo Curiel

SUPERIOR COURT OF CALIFORNIA, COUNTY OF MONTEREY		
The People of the State of California, vs. Curiel, Gonzalo,	Plaintiff Defendant	Hon. Mark E. Hood Clerk: Lita Messina CSR: Helyn Johnson - CSR#10770 Recording No.
Minutes: Arraignment: Warrant Arrest warrant January 8, 2016	Case No. SS152108B Courtroom 1	
Charges: 1: WI707(d)(1) [Special Allegation] ENH 1: PC187(a) [Murder] FEL 1: PC190.2(a)(18) [Murdr:Infliction Of Torture] ENH 2: WI707(d)(1) [Special Allegation] ENH 2: PC187(a) [Murder] FEL 2: PC190.2(a)(18) [Murdr:Infliction Of Torture] ENH 2: PC190.2(a)(3) [Murdr:Multi Counts Of Murdr] ENH 3: WI707(d)(1) [Special Allegation] ENH 3: PC273a(a) [Cause great bodily harm to child] FEL 3: PC12022.7(a) [Gbi:Great Bodily Injury] ENH 4: PC206 [Torture] FEL 4: WI707(d)(1) [Special Allegation] ENH 5: PC206 [Torture] FEL 5: WI707(d)(1) [Special Allegation] ENH 6: PC206 [Torture] FEL		

Nature of proceeding: Arraignment on arrest warrant.

Deputy District Attorney Steve Somers appeared.

Defendant appears and is in custody on this case.

Defendant appeared without Counsel.

The court informs Defendant of legal and Constitutional Rights.

Defendant informed of the charge(s) alleged.

Defendant answers to true name as charged.

Defendant requests appointment of Counsel.

Public Defender appointed.

Jared Jefferson attorney, present and accepts appointment.

Mr. Frank Dice is present on behalf of the Alternate Defender's Office.

Mr. Dices joins in the motion filed by the co-defendant motion to exclude electronic media coverage; points and authorities.

Motion is argued. The court permits comment from the media (Monterey Herald, KSBW, KION, The Salinas California, NBC – Bay Area, KTVU, KSMS Univision and Monterey County Weekly).

Defense motion to exclude electronic coverage is denied.

The court will permit media coverage, video and still cameras for today's hearing only, media are to submit new request for the next hearing.

Case continued to Wednesday, January 20, 2016 at 0830 in Salinas courtroom 03 for further arraignment and ID of Counsel.

Fingerprint form executed and filed herein pursuant to PC 992.

Defendant is remanded to the custody Of the Monterey County Sheriff.

No bail allowed.

//

SUPERIOR COURT OF CALIFORNIA, COUNTY OF MONTEREY		
The People of the State of California, vs. Curiel, Gonzalo,	Plaintiff Defendant	Hon. Pamela L. Butler Clerk: Abby Luzon CSR: Sue Just - CSR#6838 Recording No.
Minutes: Arraignment: Further-Complaint and ID of Counsel January 20, 2016		Case No. SS152108B Courtroom 3
Charges: <ul style="list-style-type: none"> 1: WI707(d)(1) [Special Allegation] ENH 1: PC187(a) [Murder] FEL 1: PC190.2(a)(18) [Murdr:Infliction Of Torture] ENH 2: WI707(d)(1) [Special Allegation] ENH 2: PC187(a) [Murder] FEL 2: PC190.2(a)(18) [Murdr:Infliction Of Torture] ENH 2: PC190.2(a)(3) [Murdr:Multi Counts Of Murdr] ENH 3: WI707(d)(1) [Special Allegation] ENH 3: PC273a(a) [Cause great bodily harm to child] FEL 3: PC12022.7(a) [Gbi:Great Bodily Injury] ENH 4: PC206 [Torture] FEL 4: WI707(d)(1) [Special Allegation] ENH 5: PC206 [Torture] FEL 5: WI707(d)(1) [Special Allegation] ENH 6: PC206 [Torture] FEL 		

Nature of proceedings: Further arraignment

Deputy District Attorney Steve Sorners appeared.

Defendant appears and is in custody on this case.

Defendant appeared with Counsel Jeremy Dzubay.

Public Defender relieved.

Defense's Motion for Continuance of further arraignment on complaint, no objection by the People, court finds good cause for request and grants the continuance.

Discussions had by respective parties re: protective order of victim's names (juveniles).

Case continued to Wednesday, January 27, 2016 at 8:30 AM in Salinas courtroom 3 for further arraignment.

Defendant to remain In-Custody (housed in Juvenile Hall).

No bail allowed.

//

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

I, GONZALO CURIEL, 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> 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>
Total monthly income:	\$ <u> -0- </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
<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>N/A</u>			\$ _____
			\$ _____
			\$ _____

4. How much cash do you and your spouse have? \$ NONE
 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
	\$ _____	\$ _____
	\$ _____	\$ _____
	\$ _____	\$ _____

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings. NO ASSETS

Home NO HOME
 Value _____

Other real estate NONE
 Value _____

Motor Vehicle #1 NO VEHICLE
 Year, make & model _____
 Value _____

Motor Vehicle #2 NO VEHICLE
 Year, make & model _____
 Value _____

Other assets
 Description _____ NO ASSETS
 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 <u>NONE</u>	Your spouse <u>N/A</u>
Rent or home-mortgage payment (include lot rented for mobile home)	\$ <u>NONE</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>NONE</u>	\$ <u>N/A</u>
Home maintenance (repairs and upkeep)	\$ <u>NONE</u>	\$ <u>N/A</u>
Food	\$ <u>NONE</u>	\$ <u>N/A</u>
Clothing	\$ <u>NONE</u>	\$ <u>N/A</u>
Laundry and dry-cleaning	\$ <u>NONE</u>	\$ <u>N/A</u>
Medical and dental expenses	\$ <u>NONE</u>	\$ <u>N/A</u>

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

Since I was arrested in connection with the events involved which arrest occurred on or about December 11, 2015, I have been in custody. Also, at the time of that arrest I was 17 years old.

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

Executed on: March 23, 2021

Gonzalo Curiel
(Signature)