

21-5470 ORIGINAL
No. _____

FILED

JUN 16 2021

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE
SUPREME COURT OF THE UNITED STATES

ALEKSYS LOMELI-GARCIA — PETITIONER
(Your Name)

VS.

DAVID SHINN — 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):

Lower State Court case No. CR201100302

☐ 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: _____, or

☐ a copy of the order of appointment is appended.


(Signature)

**AFFIDAVIT ACCOMPANYING MOTION
FOR PERMISSION TO APPEAL IN FORMA PAUPERIS**

ALEKSYS LOMELI-GARCIA

District Court No. 3:19-cv-08199-DWL-DMF
Appeal No. 20-70106

v.

DAVID SHINN

Affidavit in Support of Motion

I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury under United States laws that my answers on this form are true and correct. (28 U.S.C. § 1746; 18 U.S.C. § 1621.)

Signed: 

Instructions

Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write in that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.

Date: June 16, 2021

My issues on appeal are:

1. That I move this honorable Court to review the 28 USC 2244(c) fraud; which was perpetuated upon it by Ariz. in 1996. Causing this Court to issue directions to Ariz., which if followed, would allow Ariz., unbeknownst to this Court at the time. To Suspend the indigents AEDPA, Art. 1, Sec. 9, Cl. 2, 14th Amend., U.S. CONST., rights to submit new habeas corpus claims for relief. To review Ariz.'s subsequent 1997 policy which forbids the indigent prisoners from properly filing new habeas claims for relief, in accord with this Court's directions. Then to review the lower courts 2019-2021 Suspension and abolishment of the — obstructed indigent prisoner class' rights under 28 USC 2242. To have a Next Friend file a habeas corpus petition on their behalf, which challenged the Suspension of their habeas corpus filing rights; and their unconstitutional sentences. Evidence supported factual allegations which Ariz. had conceded and the lower courts had accepted as true — and then ignored.

2. To review the lower court's Made-Up 28 USC 2244(d)(1)(B)(D), and equitable tolling legal standards, which exist in no statute

or precedent, and were applied just to this this case, in an apparent effort to protect the Suspension of the indigents' right to properly file for the Great Writ of Habeas Corpus and challenge their unconstitutional sentences.

3. To review the lower Court's denial of Aleksys' procedural and substantive innocence claims, which relied upon new material facts and new trustworthy/empirical scientific evidence. Factual and legal innocence allegations, which Arizona conceded were all true. Since the lower courts failed to review new material facts which established innocence, and then applied the wrong legal standard to the wrong facts. Aleksys humbly moves the Court for the previously denied opportunity to affirmatively prove his actual innocence with these new uncontested material facts, and his expert's trustworthy/empirical scientific evidence; which Arizona likewise conceded.

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	\$ 15. ⁰⁰	\$ N/A	\$ 17. ⁰⁰	\$ N/A
Self-employment	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Income from real property (such as rental income)	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Interest and dividends	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Gifts	\$ 20. ⁰⁰	\$ N/A	\$ 0. ⁰⁰	\$ N/A
Alimony	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Child support	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Retirement (such as social security, pensions, annuities, insurance)	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Disability (such as social security, insurance payments)	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Unemployment payments	\$ N/A	\$ N/A	\$ N/A	\$ N/A

Public-assistance (such as welfare)	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Other (specify):	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Total monthly income: 30.00	\$0	\$0	\$0	\$0

2. List your 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
D.O.C.	896 S. Cook Rd., Safford AZ 85546	1-8-2018 - present day	\$ 17.10
			\$
			\$

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
			\$
			\$

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.

Financial Institution	Type of Account	Amount you have	Amount your spouse has
D.O.C. Trust Account	Trust Account	\$ 0.00	\$ N/A
		\$	\$ N/A
		\$	\$ N/A

If you are a prisoner seeking to appeal a judgment in a civil action or proceeding, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

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

Home	Other real estate	Motor vehicle #1
(Value) \$ N/A	(Value) \$ N/A	(Value) \$ N/A
		Make and year:
		Model:
		Registration #:

Motor vehicle #2	Other assets	Other assets
(Value) \$ <u>N/A</u>	(Value) \$ <u>N/A</u>	(Value) \$ <u>N/A</u>
Make and year:		
Model:		
Registration #:		

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>
	\$	\$
	\$	\$
	\$	\$

7. State the persons who rely on you or your spouse for support.

Name [or, if under 18, initials only]	Relationship	Age
<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, semiannually, 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? [] Yes [X] No	<u>N/A</u>	<u>N/A</u>
Is property insurance included? [] Yes [X] No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ <u>6.00</u>	\$ <u>N/A</u>
Home maintenance (repairs and upkeep)	\$ <u>0</u>	\$ <u>N/A</u>
Food	\$ <u>20.00</u>	\$ <u>N/A</u>
Clothing	\$ <u>0</u>	\$ <u>N/A</u>
Laundry and dry-cleaning	\$ <u>4.00</u>	\$ <u>N/A</u>
Medical and dental expenses	\$ <u>0</u>	\$ <u>N/A</u>
Transportation (not including motor vehicle payments)	\$ <u>0</u>	\$ <u>N/A</u>
Recreation, entertainment, newspapers, magazines, etc.	\$ <u>0</u>	\$ <u>N/A</u>
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renters:	\$ <u>0</u>	\$ <u>N/A</u>
Life:	\$ <u>0</u>	\$ <u>N/A</u>
Health:	\$ <u>0</u>	\$ <u>N/A</u>
Motor vehicle:	\$ <u>0</u>	\$ <u>N/A</u>
Other:	\$ <u>0</u>	\$ <u>N/A</u>
Taxes (not deducted from wages or included in mortgage payments) (specify):	\$ <u>N/A</u>	\$ <u>N/A</u>

Installment payments		
Motor vehicle:	\$ N/A	\$ N/A
Credit card (name):	\$ N/A	\$ N/A
Department store (name):	\$ N/A	\$ N/A
Other:	\$ N/A	\$ N/A
Alimony, maintenance, and support paid to others	\$ N/A	\$ N/A
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ N/A	\$ N/A
Other (specify):	\$ 0	\$ N/A
Total monthly expenses: 30.⁰⁰	\$ 0	\$ 0 N/A

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 spent — or will you be spending — any money for expenses or attorney fees in connection with this lawsuit?

☒ Yes ☐ No If yes, how much? \$77.50 (copies), not including postage.

11. Provide any other information that will help explain why you cannot pay the docket fees for your appeal. I am an indigent prisoner who makes .35 cents an hour; of which, 1% is taken by the state and 20% by the state Court for restitution. I can't even afford the copies and the postage, but I will sacrifice to pay it off.

12. State the city and state of your legal residence: Safford, Arizona; Legal.
 Your daytime phone number: () N/A
 Your age: 29 Your years of schooling: 15
 Last four digits of your social-security number: 2693