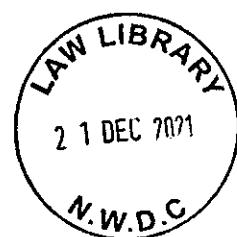


## CERTIFICATE OF SERVICE

I Salvador Amilcar Herrera Flores aka Michael Ortega, Pro Se, confined in Northwest Detention Center timely am filing this petition, since it is being deposited in the institution's internal mail system on December 21, 2021 and First-class postage has been prepaid and as require by Rule 29.2, I have served the enclosed petition for rehearing, motion for leave to proceed in forma pauperis on each party to the above proceeding to that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with the first-class postage prepaid. The name and address of these served are as follows:

Office of clerk  
Washington, DC 20543

Office of attorney  
1162 Court Street NE  
Salem Or, 97301



I Salvador Amilcar Herrera Flores aka Michael Ortega, Pro Se, declare under penalty of perjury that the foregoing is true and correct. Executed on December 21, 2021

/s/   
Michael Ortega,

Aka Salvador Herrera Flores

Pro Se

## VII. CERTIFICATE OF PRO SE PARTY

The petition hereby for rehearing is limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented. As so well, it is presented in good faith and not for delay. Rule 44.2.

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

Executed on December 21, 2021.

/s/ 

Michael Ortega aka Salvador Herrero Flores,

Pro Se Petitioner

## **CERTIFICATE OF COMPLIANCE**

Under Rule 33. 1(B) and (g), the attached petition for rehearing is proportionally spaces using a Century Family 12 point typeface and contains 3,000 words of text. Respondent has used LibreOffice 7.1 to prepare this response.

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

Executed on December 21, 2021.

/s/



Michael Ortega,

Aka Salvador Herrera Flores

Pro Se.

## **APPENDICES**

1. Letter by Clerk of the Court dated on December 10, 2021.....	1
2. Certified copy of Appellate Judgment issued on August 24, 2017.....	2

**SUPREME COURT OF THE UNITED STATES  
OFFICE OF THE CLERK  
WASHINGTON, DC 20543-0001**

December 10, 2021

Michael Ortega  
A206147530  
1623 East J Street  
Suite 5  
Tacoma, WA 98421

RE: Ortega v. Oregon  
No: 21-5654

Dear Mr. Ortega:

The petition for rehearing in the above-entitled case was postmarked November 5, 2021 and received November 10, 2021 and is herewith returned for failure to comply with Rule 44 of the Rules of this Court. The petition must briefly and distinctly state its grounds and must be accompanied by a certificate stating that the grounds are limited to intervening circumstances of substantial or controlling effect or to other substantial grounds not previously presented.

Please correct and resubmit as soon as possible. Unless the petition is submitted to this Office in corrected form within 15 days of the date of this letter, the petition will not be filed. Rule 44.6.

Sincerely,  
Scott S. Harris, Clerk

By: 

Redmond K. Barnes  
(202) 479-3022

Enclosures

STATE OF OREGON      )  
County of Marion      )

I, Nancy Cozine, State Court Administrator and keeper of the records of the Court of Appeals of the State of Oregon, do certify that the attached is a true and complete copy of the Appellate Judgement in the case of:

State of Oregon v. Michael Ortega  
Washington County Circuit Court C140476CR

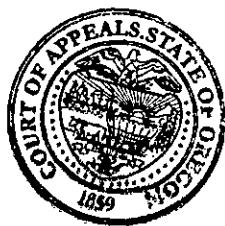
In Witness Whereof, I set my hand and affix the seal of the said Court of Appeals of the State of Oregon at Salem, Oregon,

Certified a True Copy

Issued: July 16, 2018



Alice S. Burnham  
Paralegal/Team Leader,  
Authorized Representative of  
the State Court Administrator,  
Nancy Cozine



IN THE COURT OF APPEALS OF THE STATE OF OREGON

STATE OF OREGON,  
Plaintiff-Respondent,

v.

MICHAEL ORTEGA,  
Defendant-Appellant.

Washington County Circuit Court  
C140476CR

A157763

**AMENDED APPELLATE JUDGMENT**

Thomas W. Kohl, Judge.

Argued and submitted on March 16, 2016.

David Sherbo-Huggins, Deputy Public Defender, argued the cause for appellant.

Keith L. Kutler, Assistant Attorney General, argued the cause for respondent.

Before DeVore, Presiding Judge; Garrett, Judge; and Haselton, Senior Judge.

**Convictions on Counts 1, 3, 5, 6, and 7 reversed and remanded; otherwise affirmed.**

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**DESIGNATION OF PREVAILING PARTY AND AWARD OF COST**

Prevailing party: Appellant

[ ] No costs allowed.

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Amended Appellate Judgment  
Effective Date: August 24, 2017  
*Nunc pro tunc*: August 24, 2017  
(Correcting respondent's attorney)

COURT OF APPEALS  
(seal)

fmc

**AMENDED APPELLATE JUDGMENT**

REPLIES SHOULD BE DIRECTED TO: State Court Administrator, Records Section  
Supreme Court Building, 1163 State St, Salem OR 97301-2563

**SUPREME COURT OF THE UNITED STATES  
OFFICE OF THE CLERK  
WASHINGTON, DC 20543-0001**

December 10, 2021

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Sincerely,  
Scott S. Harris, Clerk  
By:

Redmond K. Barnes  
(202) 479-3022

Enclosures

IN THE

**SUPREME COURT OF THE UNITED STATES**

MICHAEL ORTEGA AKA SALVADOR HERRERO FLORES, Petitioner,

v.

STATE OF OREGON, Respondent.

**MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS**

The petitioner asks leave to file the attached petition for rehearing without prepayment of costs and to proceed *in forma pauperis*.

Please check the appropriate boxes:

Petitioner has previously been leave to proceed *in forma pauperis* in the following court(s): **Ninth Circuit, Oregon Supreme Court and United States Supreme Court.**

Petitioner has not previously been granted leave to proceed in forma pauperis in any 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

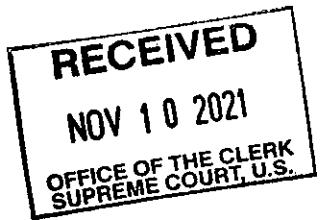
A copy of the order of appointment is appended.

/s/



Michael Ortega aka Salvador Amilcar Herrera Flores

Pro Se.



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

I, Michael Ortega, 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>0.00</u>	\$ <u>0.00</u>	\$ <u>0.00</u>	\$ <u>0.00</u>
Self-employment	\$ <u>0.00</u>	\$ <u>0.00</u>	\$ <u>0.00</u>	\$ <u>0.00</u>
Income from real property (such as rental income)	\$ <u>0.00</u>	\$ <u>0.00</u>	\$ <u>0.00</u>	\$ <u>0.00</u>
Interest and dividends	\$ <u>0.00</u>	\$ <u>0.00</u>	\$ <u>0.00</u>	\$ <u>0.00</u>
Gifts	\$ <u>0.00</u>	\$ <u>0.00</u>	\$ <u>0.00</u>	\$ <u>0.00</u>
Alimony	\$ <u>0.00</u>	\$ <u>0.00</u>	\$ <u>0.00</u>	\$ <u>0.00</u>
Child Support	\$ <u>0.00</u>	\$ <u>0.00</u>	\$ <u>0.00</u>	\$ <u>0.00</u>
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>0.00</u>	\$ <u>0.00</u>	\$ <u>0.00</u>	\$ <u>0.00</u>
Disability (such as social security, insurance payments)	\$ <u>0.00</u>	\$ <u>0.00</u>	\$ <u>0.00</u>	\$ <u>0.00</u>
Unemployment payments	\$ <u>0.00</u>	\$ <u>0.00</u>	\$ <u>0.00</u>	\$ <u>0.00</u>
Public-assistance (such as welfare)	\$ <u>0.00</u>	\$ <u>0.00</u>	\$ <u>0.00</u>	\$ <u>0.00</u>
Other (specify): <u>N/A</u>	\$ <u>0.00</u>	\$ <u>0.00</u>	\$ <u>0.00</u>	\$ <u>0.00</u>
<b>Total monthly income:</b>	<b>\$ <u>0.00</u></b>	<b>\$ <u>0.00</u></b>	<b>\$ <u>0.00</u></b>	<b>\$ <u>0.00</u></b>

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
N/A	N/A	N/A	\$ 0.00
N/A	N/A	N/A	\$ 0.00
N/A	N/A	N/A	\$ 0.00

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	\$ 0.00
N/A	N/A	N/A	\$ 0.00
N/A	N/A	N/A	\$ 0.00

4. How much cash do you and your spouse have? \$ 0.00

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
N/A	\$ 0.00	\$ 0.00
N/A	\$ 0.00	\$ 0.00
N/A	\$ 0.00	\$ 0.00

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

Home  
Value 0.00

Other real estate  
Value 0.00

Motor Vehicle #1  
Year, make & model N/A  
Value 0.00

Motor Vehicle #2  
Year, make & model N/A  
Value 0.00

Other assets  
Description N/A  
Value 0.00

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
N/A	\$ 0.00	\$ 0.00
N/A	\$ 0.00	\$ 0.00
N/A	\$ 0.00	\$ 0.00

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
Michael Stefany Herrera	Daughter	10
Nelson Perez	Son	10
Kimberly Herrera	Daughter	9

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)	\$ 0.00	\$ 0.00
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)	\$ 0.00	\$ 0.00
Home maintenance (repairs and upkeep)	\$ 0.00	\$ 0.00
Food	\$ 0.00	\$ 0.00
Clothing	\$ 0.00	\$ 0.00
Laundry and dry-cleaning	\$ 0.00	\$ 0.00
Medical and dental expenses	\$ 0.00	\$ 0.00

	<b>You</b>	<b>Your spouse</b>
Transportation (not including motor vehicle payments)	\$ 0.00	\$ 0.00
Recreation, entertainment, newspapers, magazines, etc.	\$ 0.00	\$ 0.00
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ 0.00	\$ 0.00
Life	\$ 0.00	\$ 0.00
Health	\$ 0.00	\$ 0.00
Motor Vehicle	\$ 0.00	\$ 0.00
Other: <u>N/A</u>	\$ 0.00	\$ 0.00
Taxes (not deducted from wages or included in mortgage payments)		
(specify): <u>N/A</u>	\$ 0.00	\$ 0.00
Installment payments		
Motor Vehicle	\$ 0.00	\$ 0.00
Credit card(s)	\$ 0.00	\$ 0.00
Department store(s)	\$ 0.00	\$ 0.00
Other: <u>N/A</u>	\$ 0.00	\$ 0.00
Alimony, maintenance, and support paid to others	\$ 0.00	\$ 0.00
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ 0.00	\$ 0.00
Other (specify): <u>N/A</u>	\$ 0.00	\$ 0.00
<b>Total monthly expenses:</b>	<b>\$ 0.00</b>	<b>\$ 0.00</b>

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? 0.00

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? 0.00

If yes, state the person's name, address, and telephone number:

N/A

12. Provide any other information that will help explain why you cannot pay the costs of this case.

I have been unlawful imprisoned the last 6 years, because of an unconstitutional judgment which was reversed and remanded my case to be dismissed on August 24, 2017, but it was unconstitutional and unlawful relitigated for the same offenses again on February 2018. I have been detained the last 21 months in civil proceeding (immigration) at Northwest Detention Center without any income since December 2019. I am still detained based on my convictions in this unlawful and unconstitutional judgment. I declare under penalty of perjury that the foregoing is true and correct.

Executed on: November 5, 2021

  
(Signature)