

IN THE SUPREME COURT OF THE UNITED STATES

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**ROBERT RODRIGUEZ TREVINO, Petitioner,**

v

**BOBBY LUMPKIN, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL  
JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,**

**Respondent**

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**MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS  
WITH DECLARATION IN SUPPORT, ATTACHMENT A**

Petitioner Robert Rodriguez Treviño asks leave to file the accompanying Petition for a Writ of Certiorari without prepayment of costs to proceed in forma pauperis. A copy of the Declaration in Support of Motion for Leave to Proceed in *Forma Pauperis* is attached as Attachment A.

As set forth in the Petition for Writ of Certiorari, Petitioner is and has been for over two decades, a prisoner in the Texas Department of Criminal Justice (TDCJ).

This case was actually commenced by Petitioner's sister, Gloria Treviño, who has the power of attorney for her brother.<sup>1</sup> It was filed the United States District Court,

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<sup>1</sup> A copy of the power of attorney is found attached to the Declaration. It is also one of the attachments to the Motion to Proceed in forma pauperis under Rule 24, filed in District Court. That Motion itself is found as Exhibit 1 to this Motion.

Southern District of Texas, Galveston Division, proceeding in pauperis. From the commencement of the suit through its review by the Fifth Circuit Court of Appeals, Petitioner was housed in the Carole Young TDCJ medical unit located in Galveston County, Texas. Subsequent to the ruling of the Fifth Circuit denying Petitioners Request to be granted a Certificate of Appealability, Petitioner was transferred to the TDCJ's Montford Unit, a psychiatric unit located in Lubbock Texas. The undersigned has visited Mr. Treviño numerous times during the last decade, including a visit to the Montford Unit last month. The undersigned also has had many telephone conversations with him. Based upon the undersigned's observations of Mr. Treviño for several years and from information from a family members, including another sister who has had video calls with him while he has been in the Montford Unit, it is apparent that Mr. Treviño does have significant psychiatric issues including his continuing delusion that he is being represented by Barak Obama. In addition to his psychiatric issues, Mr. Treviño is basically totally physically disabled. He is unable to walk by himself, and is confined to a special medical wheelchair or his bed.

After having his Petition for a "Writ of Habeas Corpus rejected by the district court level, Petitioner filed the requisite Motion under Rule 24(a)(3) of the Federal Rules of Appellate Procedure to seek a Certificate of Appealability at the Fifth Circuit. This Motion is attached to this pleading as Exhibit 1. The motion presented evidence supporting the application to proceed in forma pauperis. The Rule 24(a)(3) motion was supported by a declaration of Petitioner's sister, Gloria Treviño, the sister who has the

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS Page 2

power of attorney authorizing this suit, as well the necessary forms reflecting Petitioner's limited income and assets. The District Court entered an order on September 29, 2020, granting Petitioner's motion to proceed in forma pauperis on appeal. A copy of this order is attached to this pleading as Exhibit 2. There has been no change in Petitioner's financial circumstances since the entry of this order unless it is reflected in the Declaration, Attachment A..

The undersigned has taken on this case pro bono. There are insufficient funds to pay for the costs of this suite, especially the printing costs associated with filing the Petition for Writ of Certiorari.

Wherefore, Petitioner requests that his motion be granted and he allowed to proceed in this matter without having to pay fees and costs.

Respectfully submitted,

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John E. Richards\*  
Texas State Bar No. 16848900  
RICHARDS AND VALDEZ  
6060 North Central Expressway  
Suite 500  
Dallas, Texas 75206  
214-455-4690 (phone)  
866-823-2719 (facsimile)  
[John.Richards@richardsvaldez.com](mailto:John.Richards@richardsvaldez.com)  
Counsel for Petitioner  
Robert Rodriguez Treviño.

## **CERTIFICATE OF SERVICE**

I certify that on January 13, 2012, the foregoing document was served, via the Court's CM/ECF Document Filing System, upon the following registered CM/ECF user without the Declaration.

Joseph P. Corcoran  
Assistant Attorney General Supervising Attorney  
Non-Capital Appeals Criminal Appeals Division  
P. O. Box 12548, Capitol Station  
Austin, Texas 78711

Edward Marshall  
Office of the Attorney General  
Austin, TX

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John E. Richards

# ATTACHMENT A

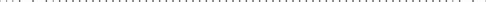
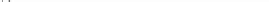
**AFFIDAVIT OR DECLARATION  
IN SUPPORT OF MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS***

I, \_\_\_\_\_, 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
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	You	<del>Spouse</del>	You	<del>Spouse</del>
Employment	\$ _____	\$ _____	\$ _____	\$ _____
Self-employment	\$ _____	\$ _____	\$ _____	\$ _____
Income from real property (such as rental income)	\$ _____	\$ _____	\$ _____	\$ _____
Interest and dividends	\$ _____	\$ _____	\$ _____	\$ _____
Gifts	\$ _____	\$ _____	\$ _____	\$ _____
Alimony	\$ _____	\$ _____	\$ _____	\$ _____
Child Support	\$ _____	\$ _____	\$ _____	\$ _____
Retirement (such as social security, pensions, annuities, insurance)	\$ _____	\$ _____	\$ _____	\$ _____
Disability (such as social security, insurance payments)	\$ <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	\$ <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	\$ <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	\$ <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Unemployment payments	\$ _____	\$ _____	\$ _____	\$ _____
Public-assistance (such as welfare)	\$ _____	\$ _____	\$ _____	\$ _____
Other (specify): _____	\$ _____	\$ _____	\$ _____	\$ _____

Total monthly Income: \$  \$  \$  \$ 

# ATTACHMENT A

2. List your employment history for the past two years, most recent first. (Gross monthly pay is before taxes or other deductions.)

<b>Employer</b>	<b>Address</b>	<b>Dates of Employment</b>	<b>Gross monthly pay</b>
Mr. <input type="text"/>	<input type="text"/>	<input type="text"/>	\$ <input type="text"/>
	<input type="text"/>	<input type="text"/>	\$ <input type="text"/>
	<input type="text"/>	<input type="text"/>	\$ <input type="text"/>

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.)

Financial institution □□	Type of account	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.

Home    
Value \_\_\_\_\_

Other real estate     
Value \_\_\_\_\_

Motor Vehicle #1         
Year, make & model \_\_\_\_\_  
Value \_\_\_\_\_

Motor Vehicle #2  
Year, make & model \_\_\_\_\_  
Value \_\_\_\_\_

Other assets     
Description \_\_\_\_\_  
Value \_\_\_\_\_



# ATTACHMENT A

	<b>You</b>	<b>Your spouse</b>
Transportation (not including motor vehicle payments)	\$ <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/> <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/> <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/>	\$ <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/> <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/>
Recreation, entertainment, newspapers, magazines, etc.	\$ <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/> <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/>	\$ <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/>
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/> <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/>	\$ <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/>
Life	\$ <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/> <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/>	\$ <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/>
Health	\$ <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/> <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/>	\$ <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/>
Motor Vehicle	\$ <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/> <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/>	\$ <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/>
Other: _____	\$ <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/> <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/>	\$ <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/>
Taxes (not deducted from wages or included in mortgage payments)		
(specify): _____	\$ <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/> <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/>	\$ <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/>
Installment payments		
Motor Vehicle	\$ <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/> <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/>	\$ <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/>
Credit card(s)	\$ <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/> <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/>	\$ <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/>
Department store(s)	\$ <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/> <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/>	\$ <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/>
Other: _____	\$ <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/> <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/>	\$ <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/>
Alimony, maintenance, and support paid to others	\$ <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/> <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/>	\$ <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/>
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/> <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/>	\$ <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/>
Other (specify): _____	\$ <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/> <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/>	\$ <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/>
<b>Total monthly expenses:</b>	\$ <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/> <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/>	\$ <input style="width: 20px; height: 15px; border: 1px solid black; border-radius: 5px;" type="text"/>

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# ATTACHMENT 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 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. Robert has been in prison at the Texas Department of Criminal Justice system for over twenty years. I has his power of attorney (attached) and am familiar with his financial situation that is set forth above. Robert's only income is from the Veteran's Administration for 100% disability in the amount of \$152 a month. He has no property. For the last several years Robert has deteriorated mentally drastically. For example, among other things, he believes Barack Obama is his attorney who has received a \$500,000 settlement for is cases but the money was stolen by a Barack Obama impersonator. He has other delusions. He is currently housed at the TDCJ Montford Unit in Lubbock Texas which is a psychiatric unit. He also is quadraplegic and is confined either to his bed or a medical wheelchair. \_\_\_\_\_

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

Executed on: January 5, 20 22

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



(Signature)

Gloria Trevino, sister of Petitioner  
Robert Rodriguez Trevino

ORIGINAL FILED

ELLIS COUNTY  
CINDY POLLEY  
ELLIS COUNTY CLERK

**STATUTORY DURABLE POWER OF ATTORNEY**

**NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE DURABLE POWER OF ATTORNEY ACT, CHAPTER XII, TEXAS PROBATE CODE. IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.**

I, Robert Rodriguez Trevino, appoint Gloria Trevino Turner, residing at 12526 Olympia Drive, Houston, Harris County, Texas 77077, as my agent (attorney-in-fact) to act for me in any lawful way with respect to the following initialed subjects:

To grant all of the following powers, initial the line in front of power designated by the letter "N" and ignore the lines in front of the other powers.

To grant one or more, but fewer than all, of the following powers, initial the line in front of each power you are granting.

To withhold a power, do not initial the line in front of it. you may, but need not, cross out each power withheld.

**INITIAL**

- (A) real property transactions;
- (B) tangible personal property transactions;
- (C) stock and bond transactions;
- (D) commodity and option transactions;
- (E) banking and other financial institutions transactions;
- (F) business operating transactions;
- (G) insurance and annuity transactions;
- (H) estate, trust, and other beneficiary transactions;
- (I) claims and litigation;
- (J) personal and family maintenance;
- (K) benefits from social security, Medicare, Medicaid, or other governmental programs or civil or military service;
- (L) retirement plan transactions;
- (M) tax matters;
- (N) All of the powers listed in (A) through (M). You need not initial any other lines if you initial line (N).

**Special Instructions: On the following lines you may give special instructions limiting or extending the powers granted to your agent.**

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# ATTACHMENT A

Unless you direct otherwise above, this Power of Attorney is effective immediately and will continue until it is revoked.

Choose one of the following alternatives by crossing out the alternative not chosen:

(A) This power of attorney is not affected by my subsequent disability or incapacity.  
(B) This power of attorney becomes effective upon my disability or incapacity.

You should choose alternative (A) if this power of attorney is to become effective on the date it is executed.

If neither (A) nor (B) is crossed out, it will be assumed that you chose alternative (A).

I agree that any third party who receives a copy of this document may act under it. Revocation of the durable power of attorney is not effective as to a third party until the third party receives actual notice of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

If any agent named by me dies, becomes legally disabled, resigns or refuses to act, I name the following (each to act alone and successively, in the order named) as successor(s) to that agent: None.

Signed this 31 day of July, 2008.

Robert R. Trevino  
Robert Rodriguez Trevino

STATE OF TEXAS  
COUNTY OF Fort Bend

This document was acknowledged before me on the 31 day of July, 2008,  
by Robert Rodriguez Trevino.



Stephanie Pryor  
Notary Public, State of Texas

The attorney in fact or agent, by accepting or acting under the appointment, assumes the fiduciary and other legal responsibilities of an agent.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT  
GALVESTON DIVISION

TREVIÑO RODRIGUEZ TREVIÑO §  
TDCJ # 00729766, §  
Petitioner §  
§  
v. §  
§  
LORIE DAVIS, et. al. §  
Respondent §

No. 3-19-cv- 324

**RULE 24(a)(4) MOTION TO PROCEED IN PAUPERIS IN APPEAL**

Pursuant to Rule 24(a)(3) of the Federal Rules of Appellate Procedure, Petitioner, now Appellant in the Fifth Circuit Court of Appeals in *Trevino v. Lumpkin*, CA 20-20589, files this Motion requesting that this Court enter an Order that he be allowed to proceed in pauperis before the Fifth Circuit Court of Appeals.

**A. Declaration and Application in Support of In Pauperis for Petitioner**

Pursuant to the Rule, Appellant is attaching a Declaration of Gloria Trevino in support of Rule 23(a)(3), Attachment A. Attached to the Declaration is the original Application To Proceed In District Court Without Prepaying Fees Or Costs filed in this court on September 30, 2019. The original Application shows in the detail prescribed by Form 4 of the Appendix of Forms Petitioners inability to pay or to give security for fees and costs. The new Declaration, Attachment A, shows the few changes to the original Application as of the date of this filing and established he is still entitled to proceed in pauperis. In addition to the Gloria Trevino Declaration, Petitioner has also requested a copy of the last 6 Months of Trust fund activity from the Texas Department of Criminal Justice/Commissary & Trust Fund, a copy of which request is attached as Attachment B.

**B. Entitlement to Redress**

As required by Rule 23(a)(3), Petitioner states he is entitled to redress. As set forth in the Original Petition for Writ of Habeas Corpus filed in this court on August 19, 2019. As set forth in the Petition, Petitioner asserts he is entitled to Medical Release Intensive Supervision (MRIS) under §508.146 of the Texas Government Code and the TDCJ Policy Manual A-08.6, that he is being detained by the Texas Department of Criminal Justice in violation of his right to release under MRIS.

**C. Issues Appellant Intends To Present On Appeal.**

Petitioner will present the following issues on appeal:

1. Trevino asserts and has provided evidence that he is entitled to appeal the Final Judgment of this court on August 5, 2020, that reasonable minds may differ on his right based upon the evidence and case law and thus that this Court's denial of appealability should be overturned and his appeal allowed.
2. Treviño asserts that, with respect to his individual situation, he has a liberty interest in the application of Texas Government Code §508.146, Texas Department of Criminal Justice (TDCJ) Policy Manual A-086, and other regulations and policy manuals of TDCJ with respect to MRIS and thus the Court was incorrect in deciding he did not.
3. Trevino asserts he has a cognizable liberty interest in seeing that the Texas standards for MRIS have been met and at least the minimum procedures adequate for due-process protection of that interest are those set forth in the case of *Greenholtz v. Inmates of Nebraska Penal & Corr. Complex*, 442 U.S. 7 (1979) and thus that the Court was incorrect in deciding he did not.
4. A proposed order is being filed.

Wherefore, Petitioner requests that this Court grant this motion.

Respectfully Submitted

/s/ John E. Richards

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John E. Richards  
State Bar No. 16848900  
RICHARDS AND VALDEZ  
6060 North Central Expressway  
Suite 500  
Dallas, TX 75206  
ATTORNEYS FOR PETITIONER  
Treviño Rodriguez Treviño

**CERTIFICATE OF CONFERENCE**

The undersigned certifies that he has conferred with Joseph Corcoran, Counsel for Respondent concerning this Motion and Mr. Corcoran has stated that Respondent has no position on this Motion.

/s/ John E. Richards

John E. Richards

**NOTICE OF ELECTRONIC FILING**

I, John E. Richards, attorney for Plaintiff, certify that I have electronically submitted for filing a true and correct copy of the foregoing pursuant to the Electronic Case Files System of the Southern District of Texas, on September 24, 2020

/s/ John E. Richards

John E. Richards

**CERTIFICATE OF SERVICE**

The Undersigned certifies that he served a true and correct copy of the foregoing Notice via email to Joseph P. Corcoran, Assistant Attorney General Supervising Attorney for Non-Capital Appeals Criminal Appeals Division, Capitol Station, P. O. Box 12548 Austin, Texas 78711, attorney for Respondent via email at Joseph.Corcoran@oag.Texas.gov on September 24, 2020.

/s/ John E. Richards

John E. Richards

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT  
GALVESTON DIVISION

TREVIÑO RODRIGUEZ TREVIÑO §  
TDCJ # 00729766, §  
Petitioner §  
§  
v. §  
§  
LORIE DAVIS, et. al. §  
Respondent §

No. 3-19-cv- 324

**DECLARATION OF GLORIA TREVINO IN SUPPORT OF Rule 24(a)(3)  
MOTION**

I, Gloria Treviño, am the sister of Robert Rodriguez Treviño, a prisoner in the Texas Department of Criminal Justice, No. 729766. I also have power of attorney from Robert to act on his behalf which is attached. I also have knowledge of Robert's financial affairs. I declare that, to the best of my knowledge, Robert Rodriguez Treviño is unable to pay the costs of these proceedings and that he is entitled to the relief requested. In support of this application, I answer the following questions under penalty of perjury:

1. On September 30, 2019, I filed an Application To Proceed In District Court Without Prepaying Fees Or Costs (the "Application") a true and correct copy of which is attached hereto as Exhibit 1.

2. I have reviewed the Application and declare that there have been no changes to any of the matters contained in the Application except the following:

a. The Covid 19 virus has affected the Texas Department of Criminal Justice (TDCJ), including the Carole Young Medical Unit ("Carole Young") in Dickinson Texas where Respondent is housed. Robert contracted Covid 19. He was sent to the UTMB Sealy Hospital to deal with the covid and deal with an intestinal blockage. After his stay there he was returned to Carol Young. Because of Covid

19, most TDCJ facilities were locked down, including Carol Young and John Sealy. I have not been able to see Robert during these times, as had my attorney, John Richards. As such, I am not aware of how much money, if any, Robert has in his prisoner's account.

- b. I have requested another statement certified by the appropriate institutional officer of that institution showing all receipts, expenditures, and balances during the last six months for any institutional account in Robert Rodriguez Treviño's name to be mailed to the District Clerk of this District. He has not been incarcerated in another institution during the last six months.
- c. I had sent a money order for \$100.00 to the Texas Department of Criminal Justice for Robert; however on September 20, 2020 I received the letter, attached hereto as Exhibit 2, stating that the money order was being returned.

*Declaration:* I declare under penalty of perjury that the above information is true and understand that a false statement may result in dismissal of my claims

Date: September 23, 2020

  
*Gloria Treviño*  
Applicant's signature  
Gloria Treviño as next Friend  
of Robert Rodriguez Treviño

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT  
GALVESTON DIVISION

**ROBERT RODRIGUEZ TREVIÑO**  
**Petitioner**

v.

TEXAS DEPARTMENT OF  
CRIMINAL JUSTICE/CAROL  
YOUNG MEDICAL FACILITY and  
THE UNIVERSITY OF TEXAS  
MEDICAL BRANCH IN GALVESTON  
TEXAS

**APPLICATION TO PROCEED IN DISTRICT COURT  
WITHOUT PREPAYING FEES OR COSTS (Short Form)**

I, Gloria Treviño, am the sister of Robert Rodriguez Treviño, a prisoner in the Texas Department of Criminal Justice, No. 729766. I also have power of attorney from Robert to act on his behalf which is attached. I also have knowledge of Robert's financial affairs. I declare that Robert Rodriguez Treviño is unable to pay the costs of these proceedings and that he is entitled to the relief requested. In support of this application, I answer the following questions under penalty of perjury:

1. *If incarcerated:*

Robert Rodriguez Treviño is being held at the Carol S. Young Medical Facility, RMF - EP-0-9-A, which is located at 5509 Attwater Ave., Dickinson, TX 77539. Robert Rodriguez Treviño is unemployed and has been in prison since 1995.

I have requested a statement certified by the appropriate institutional officer of that institution showing all receipts, expenditures, and balances during the last six months for any institutional account in Robert Rodriguez Treviño's name to be mailed to the District Clerk of this District. He has not been incarcerated in another institution during the last six months..

2. *If not incarcerated.*

Not applicable because Robert Rodriguez Treviño is not employed.

3. *Other Income.* In the past 12 months, Robert Rodriguez Trevino has received income from the following sources (check all that apply):

(a) Business, profession, or other self- employment	No
(b) Rent payments, interest, or dividends	No
(c) Pension, annuity, or life insurance payments	No
(d) Disability, or worker's compensation payments	Yes
(e) Gifts, or inheritances	No
(f) Any other sources	No

*If you answered "Yes" to any question above, describe below or on separate pages each source of money and state the amount that you received and what you expect to receive in the future.*

Robert Trevino's only source of income is his disability from the Department of Veteran Affairs in the amount of \$ 140.05 per month.

4. Amount of money that Robert Rodriguez Trevino has in cash or in a checking or savings account:

\$0

5. Any automobile, real estate, stock, bond, security, trust, jewelry, artwork, or other financial instrument or thing of value that Robert Rodriguez Trevino owns, including any item of value held in someone else's name (*describe the property and its approximate value*):

None

6. Any housing, transportation, utilities, or loan payments, or other regular monthly expenses (*describe and provide the amount of the monthly expense*):

None

7. Names (of if under 18, initials only) of all persons who are dependent on Robert Rodriguez for support, his relationship with each person, and how much he contributes to their support.

None

8. Any debts or financial obligations (*describe the amounts owed and to whom they are payable*):

None

*Declaration:* I declare under penalty of perjury that the above information is true and understand that a false statement may result in dismissal of my claims

Date: August 18, 2019

Gloria Treviño  
Applicant's signature  
Gloria Treviño as next Friend  
of Robert Rodriguez Treviño

ORIGINAL FILED

CINDY POLLEY  
ELLIS COUNTY CLERK

STATUTORY DURABLE POWER OF ATTORNEY

**NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE DURABLE POWER OF ATTORNEY ACT, CHAPTER XII, TEXAS PROBATE CODE. IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.**

I, Robert Rodriguez Trevino, appoint Gloria Trevino Turner, residing at 12526 Olympia Drive, Houston, Harris County, Texas 77077, as my agent (attorney-in-fact) to act for me in any lawful way with respect to the following initialed subjects:

To grant all of the following powers, initial the line in front of power designated by the letter "N" and ignore the lines in front of the other powers.

To grant one or more, but fewer than all, of the following powers, initial the line in front of each power you are granting.

To withhold a power, do not initial the line in front of it. you may, but need not, cross out each power withheld.

**INITIAL**

- (A) real property transactions;
- (B) tangible personal property transactions;
- (C) stock and bond transactions;
- (D) commodity and option transactions;
- (E) banking and other financial institutions transactions;
- (F) business operating transactions;
- (G) insurance and annuity transactions;
- (H) estate, trust, and other beneficiary transactions;
- (I) claims and litigation;
- (J) personal and family maintenance;
- (K) benefits from social security, Medicare, Medicaid, or other governmental programs or civil or military service;
- (L) retirement plan transactions;
- (M) tax matters;
- (N) All of the powers listed in (A) through (M). You need not initial any other lines if you initial line (N).

**Special Instructions: On the following lines you may give special instructions limiting or extending the powers granted to your agent.**

Unless you direct otherwise above, this Power of Attorney is effective immediately and will continue until it is revoked.

Choose one of the following alternatives by crossing out the alternative not chosen:

(A) This power of attorney is not affected by my subsequent disability or incapacity.  
(B) This power of attorney becomes effective upon my disability or incapacity.

You should choose alternative (A) if this power of attorney is to become effective on the date it is executed.

If neither (A) nor (B) is crossed out, it will be assumed that you chose alternative (A).

I agree that any third party who receives a copy of this document may act under it. Revocation of the durable power of attorney is not effective as to a third party until the third party receives actual notice of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

If any agent named by me dies, becomes legally disabled, resigns or refuses to act, I name the following (each to act alone and successively, in the order named) as successor(s) to that agent: None.

Signed this 31 day of July, 2008.

Robert R. Trevino  
Robert Rodriguez Trevino

STATE OF TEXAS  
COUNTY OF Fort Bend

This document was acknowledged before me on the 31 day of July, 2008,  
by Robert Rodriguez Trevino.



Stephanie Pryor  
Notary Public, State of Texas

The attorney in fact or agent, by accepting or acting under the appointment, assumes the fiduciary and other legal responsibilities of an agent.

AO 101A (Rev. 09/07/2012) Order to Proceed Without Prepaying Fees or Costs

UNITED STATES DISTRICT COURT  
or the

ROBERT RODRIGUEZ TREVIÑO

Petitioner v.  Civil Action No.  
BRIAN COLLIER, EXECUTIVE DIRECTOR, TEXAS  
DEPARTMENT OF CRIMINAL JUSTICE, ET AL.   
Respondents

**ORDER TO PROCEED WITHOUT PREPAYING FEES OR COSTS**

**IT IS ORDERED:** The plaintiff's application under 28 U.S.C. 2231 to proceed without prepaying fees or costs is

Granted

The Clerk is ordered to file the complaint and issue summons. The United States Marshal is ordered to serve the summons without opbortionate expense and this order on the defendant(s). The United States Marshal will serve the costs of service. Prisoner plaintiff is responsible for the payment of the filing fee.

Granted Conditionally

The Clerk is ordered to file the complaint. Upon receipt of the completed summons and USM, or for each defendant, the Clerk will issue summons. If the completed summons and USM are not submitted as directed, the complaint will be dismissed. The United States Marshal is ordered to serve the completed summons without opbortionate expense and this order on the defendant(s). The United States Marshal will serve the costs of service. Prisoner plaintiff is responsible for the payment of the filing fee.

Denied

This application is denied for these reasons:

Date: \_\_\_\_\_

*Judge's signature*

*Printed name and title*



## Texas Department of Criminal Justice

Bryan Collier  
Executive Director

September 17, 2020

GLORIA TURNER  
12526 OLYMPIA DR.  
HOUSTON, TX 77077

Dear Sir or Madam,

We have received your Money Order in the amount of \$100.00 for Offender TREVINO, ROBERTO (TDCJ # 00729766). In order for you to deposit funds into an Offenders Trust Fund account you must be on either the Offender's Approved Visitation - or - Telephone List.

You are not an approved depositor; therefore we are returning your money order.

For more information on how to become an Approved Visitor or Approved Caller, please review the instructions below.

### Offender Visitation List

Offender is responsible for adding friends and family to their Visitation List. Please contact the units Classification and Records department for more information.

### Offender Telephone System

You must register your telephone number with the Offender Telephone System. You may register via the internet by going to [texasprisonphone.com](http://texasprisonphone.com) or by calling (866) 806-7804.

Sincerely,

TDCJ/Commissary & Trust Fund  
PO Box 60  
Huntsville, TX 77342

Received 2020  
Sept. 20, 2020  
H.J.

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*Our mission is to provide public safety, promote positive change in offender behavior, reintegrate offenders into society, and assist victims of crime.*

Commissary & Trust Fund  
P O Box 629, Huntsville, TX 77342-0629  
[www.tdcj.state.tx.us](http://www.tdcj.state.tx.us)

**EXHIBIT 1**

DOCUMENT CONTAINS COLORED BACKGROUND ON WHITE PAPER. "VOID" FEATURE, SIMULATED WATERMARK (REVERSE SIDE) MICRO-PRINT BORDER.

PLEASE POST THIS PAYMENT FOR OUR MUTUAL CUSTOMER

<b>Account: ROBERT R TREVINO729766</b>	<b>\$100.00</b>
Please Direct Any Questions To (800) 956-4442	
WELLS FARGO BANK, NA DEPT#34033, PO BOX 39000 San Francisco, CA 94139 9647482323 0030178182	
56-382/412	
0030178182	
<u>September 02, 2020</u>	
1184 0631 EPV 07 0904 6/6 37301557.3 00042373	
Pay <u>ONE HUNDRED AND 00/100</u>	<u>100-</u> <u>DOLLARS</u>
TO THE ORDER OF	INMATE TRUST FUND PO BOX 60 HUNTSVILLE, TX 77342-0060
\$ <u>100.00</u>	
VOID 90 DAYS AFTER ISSUE	
	
K. R.	
AUTHORIZED SIGNATURE	

WARNING - THIS BORDER CONTAINS MICROTYPE WHICH WILL NOT REPRODUCE ON A COPIER

10030178182 0412038241 9647482323

TEXAS DEPARTMENT OF CRIMINAL JUSTICE  
INMATE TRUST FUND  
P. O. BOX 60  
HUNTSVILLE, TEXAS 77342-0060

PLEASE USE BUSINESS-SIZE ENVELOPE  
DO NOT FOLD, STAPLE OR TAPE  
Print CAPITAL letters and numbers block  
style inside square without touching sides

Use Black or Dark Blue Ink.  
- PRINT all requested information.  
- Money Order MUST be payable to  
"INMATE TRUST FUND".  
For funds - Name & Number  
Leave unused blocks BLANK.

—SEE OTHER SIDE—

00729766

1 5 8 9 A B C D

Trervino

Rob ert o

R

100 00

0030178182

Turner

Glor ia

12526 Olympia Dr. Houston, TX 77077-  
5828

**RICHARDS & VALDEZ**  
ATTORNEYS AND COUNSELORS

**JOHN E. RICHARDS**  
Rated AV Preeminent™ by Martindale-Hubbell  
john.richards@richardsvaldez.com

**6060 NORTH CENTRAL EXPRESSWAY**  
**SUITE 500**  
**DALLAS, TEXAS 75206**  
Telephone (214) 455-4690  
Telecopier (866) 823-2719

September 24, 2020

via Priority Mail

TDCJ/Commissary & Trust Fund  
PO Box 60  
Hunstville, TX 77324

Re: Request for Six Month Activity on Inmate Trust Fund  
Robert Rodriguez Treviño, Number 729766  
Robert Rodriguez Treviño v. Lorie Davis, 3:14-cv-324

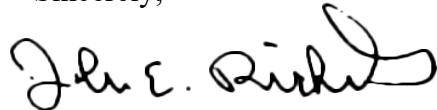
Dear Sirs;

I represent Robert Treviño. I have previously appeared as Mr. Treviño's lawyer with the TDCJ. I also represent Mr. Treviño was in a lawsuit in United States Federal District Court in Galveston as case no 3:14-cv-324, Robert Rodriguez Treviño v. Lorie Davis. This matter is being appealed to the United States Court of Appeal, Fifth Circuit in Trevino v. Lumpkin, CA 20-20589.

We have previously filed an Application to Proceed Without Prepaying Fees of Costs in the case. We are now in need of updating the status of his Inmate Trust Fund for the last 6 months of Mr. Treviño's Inmate Trust Fund. The information can be mailed to the David J. Bradley, Clerk of the Court, United States District Court, Southern District of Texas, Galveston Division, 601 Rosenberg Street, Room 411, Galveston, Texas 77550.

Also, please fax a copy of the information to me at 866-823-2719. Call me if you have any questions or need any additional information.

Sincerely,



John E. Richards

cc: David Bradley  
Joseph Corcoran

**ATTACHMENT B**

**EXHIBIT 1**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT  
GALVESTON DIVISION

TREVIÑO RODRIGUEZ TREVIÑO §  
TDCJ # 00729766, §  
Petitioner §  
§  
v. §  
§  
LORIE DAVIS, et. al. §  
Respondent §

No. 3-19-cv- 324

**ORDER GRANTED PETITIONER'S RULE 24(a)(4) MOTION**

Pursuant to Rule 24(a)(3) of the Federal Rules of Appellate Procedure, Petitioner has filed a Motion to Proceed in Pauperis in his appeal of this Court's Final Judgment dismissing Petitioner's Petition for a Writ of Habeas Corpus. The judgment was entered on August 5, 2020. Petitioner's appeal is now pending at Fifth Circuit Court of Appeals in *Trevino v. Lumpkin*, CA 20-20589.

The Motion is granted.

Signed on \_\_\_\_\_  
\_\_\_\_\_  
Jeffery V. Brown  
United States District Judge.

**ENTERED**

September 29, 2020

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
GALVESTON DIVISION**

ROBERT RODRIGUEZ TREVINO, §  
TDCJ #00729766 §  
Petitioner, § CIVIL ACTION NO. 3:19-cv-324  
VS. §  
BOBBY LUMPKIN,<sup>1</sup> §  
Respondent. §

**ORDER**

On August 5, 2020, the court dismissed the habeas petition filed by Robert Rodriguez Trevino with prejudice (Dkt. 16). In that same order, the court denied a certificate of appealability (*id.*).

Trevino has moved to proceed *in forma pauperis* on appeal (Dkt. 22). Because the motion and supporting documentation indicate that Trevino is unable to pay the appellate docketing fee, it is **ORDERED** that the motion to proceed on appeal *in forma pauperis* (Dkt. 22) is **GRANTED**.

Signed on Galveston Island this 29th day of September, 2020.

  
\_\_\_\_\_  
JEFFREY VINCENT BROWN  
UNITED STATES DISTRICT JUDGE

<sup>1</sup> The previously named respondent in this action was Lorie Davis. In August 2020, Bobby Lumpkin succeeded Davis as Director of the Texas Department of Criminal Justice – Correctional Institutions Division. Under Rule 25(d) of the Federal Rules of Civil Procedure, Lumpkin is automatically substituted as a party.