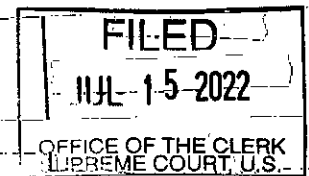


No. **22 - 5271**

ORIGINAL



IN THE
SUPREME COURT OF THE UNITED STATES

JOSE ERBO — PETITIONER
(Your Name)

VS.

UNITED STATES — 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):

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

☐ Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

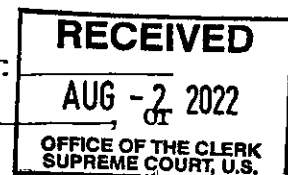
☒ Petitioner's affidavit or declaration in support of this motion is attached hereto.

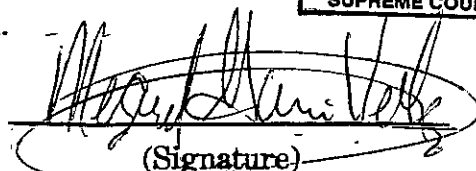
☐ Petitioner's affidavit or declaration is **not** attached because the court below appointed counsel in the current proceeding, and:

☐ The appointment was made under the following provision of law:

18 U.S.C. Sect. 3006(A)

☐ a copy of the order of appointment is appended.




(Signature)

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

I, JOSE Erbo, 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>7.40ct</u>	\$ <u>N/A</u>	\$ <u>7.40ct</u>	\$ <u>N/A</u>
Self-employment	\$ <u>NONE</u>	\$ <u>N/A</u>	\$ <u>NONE</u>	\$ <u>N/A</u>
Income from real property (such as rental income)	\$ <u>NONE</u>	\$ <u>N/A</u>	\$ <u>NONE</u>	\$ <u>N/A</u>
Interest and dividends	\$ <u>NONE</u>	\$ <u>N/A</u>	\$ <u>NONE</u>	\$ <u>N/A</u>
Gifts	\$ <u>NONE</u>	\$ <u>N/A</u>	\$ <u>NONE</u>	\$ <u>N/A</u>
Alimony	\$ <u>NONE</u>	\$ <u>N/A</u>	\$ <u>NONE</u>	\$ <u>N/A</u>
Child Support	\$ <u>NONE</u>	\$ <u>N/A</u>	\$ <u>NONE</u>	\$ <u>N/A</u>
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>NONE</u>	\$ <u>N/A</u>	\$ <u>NONE</u>	\$ <u>N/A</u>
Disability (such as social security, insurance payments)	\$ <u>NONE</u>	\$ <u>N/A</u>	\$ <u>NONE</u>	\$ <u>N/A</u>
Unemployment payments	\$ <u>NONE</u>	\$ <u>N/A</u>	\$ <u>NONE</u>	\$ <u>N/A</u>
Public-assistance (such as welfare)	\$ <u>NONE</u>	\$ <u>N/A</u>	\$ <u>NONE</u>	\$ <u>N/A</u>
Other (specify): <u>Family</u>	\$ <u>160.00</u>	\$ <u>N/A</u>	\$ <u>NONE</u>	\$ <u>N/A</u>
Total monthly income:	\$ <u>170.00</u>	\$ <u>N/A</u>	\$ <u>NONE</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
Unit Orderly	8182 McCreary	2022	\$ 7.40 ct
		2021	\$ 11 11 11
		2020	\$ 11 11 11

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? \$ 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
	\$ 160.00 ct	\$ N/A
	\$	\$
	\$	\$

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

☐ Home
Value None

☐ Other real estate
Value NONE

☐ Motor Vehicle #1
Year, make & model NONE
Value _____

☐ Motor Vehicle #2
Year, make & model NONE
Value _____

☐ Other assets
Description NONE
Value _____

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ <u>NONE</u>	\$ <u>N/A</u>
Recreation, entertainment, newspapers, magazines, etc.	\$ <u>10.00</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>	\$ _____	\$ _____
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>160.00</u>	\$ <u>N/A</u>

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>	\$ <u>NONE</u>	\$ <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>A.G.</u>	<u>Granddaughter</u>	<u>9</u>
<u>M.G.</u>	<u>Grandson</u>	<u>5</u>
<u>C.G.</u>	<u>Granddaughter</u>	<u>6-months</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	Your spouse
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 checked="" type="checkbox"/> No		
Is property insurance included? <input type="checkbox"/> Yes <input checked="" 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>140.00</u>	\$ <u>N/A</u>
Clothing	\$ <u>20.00</u>	\$ <u>N/A</u>
Laundry and dry-cleaning	\$ <u>9.00</u>	\$ <u>N/A</u>
Medical and dental expenses	\$ <u>6.00</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? _____

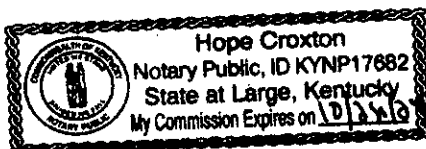
If yes, state the person's name, address, and telephone number:

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

I HAVE BEEN A INDIGENT DEFENDANT/PETITIONER
FROM THE INITIAL OF MY CRIMINAL/CIVIL ACTIONS.

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

Executed on: July 26, 2022




(Signature)

Inmate Statement



Inmate Reg #: 21134069 Current Institution: McCreary USP
 Inmate Name: ERBO, JOSE Housing Unit: MCR-B-B
 Report Date: 07/06/2022 Living Quarters: B03-130L
 Report Time: 10:37:18 AM

Alpha					Transaction	Transaction	Encumbrance	Ending
Code	Date/Time	Reference#	Payment#	Receipt#	Type	Amount	Amount	Balance
MCR	6/18/2022	TL0618			TRUL	(\$2.00)		\$181.20
	11:50:43 AM				Withdrawal			
MCR	6/18/2022	TL062022			Pre-Release		\$0.33	-----
	11:50:28 AM				Transaction			
MCR	6/13/2022	TL062022			Pre-Release		\$9.00	-----
	6:55:48 PM				Transaction			
MCR	6/13/2022	33322164			Western Union	\$180.00		\$183.20
	6:08:11 PM							
MCR	6/13/2022	33322164			Pre-Release		(\$9.00)	-----
	6:08:11 PM				Transaction			
MCR	6/8/2022	TL0608			TRUL	(\$5.00)		\$3.20
	11:49:44 AM				Withdrawal			
MCR	6/7/2022	XIPPO522			Payroll - IPP	\$6.60		\$8.20
	10:35:35 AM							
MCR	6/7/2022	XIPPO522			Pre-Release		(\$0.33)	-----
	10:35:35 AM				Transaction			
MCR	5/31/2022	61			Sales	(\$178.90)		\$1.60
	12:13:17 PM							
MCR	5/28/2022	TL052022			Pre-Release		\$0.33	-----
	6:14:39 PM				Transaction			
MCR	5/26/2022	TL0526			TRUL	(\$2.00)		\$180.50
	6:50:04 PM				Withdrawal			
MCR	5/26/2022	TL0526			TRUL	(\$2.00)		\$182.50
	10:53:52 AM				Withdrawal			
MCR	5/26/2022	TL052022			Pre-Release		\$9.00	-----
	8:56:52 AM				Transaction			
MCR	5/26/2022	33322146			Western Union	\$180.00		\$184.50
	7:09:13 AM							
MCR	5/26/2022	33322146			Pre-Release		(\$9.00)	-----
	7:09:13 AM				Transaction			
MCR	5/7/2022	TL0507			TRUL	(\$2.00)		\$4.50
	6:56:39 AM				Withdrawal			
MCR	5/4/2022	48			Sales	(\$172.65)		\$6.50
	11:58:29 AM							
MCR	5/4/2022	XIPPO422			Payroll - IPP	\$6.60		\$179.15
	10:54:35 AM							
MCR	5/4/2022	XIPPO422			Pre-Release		(\$0.33)	-----
	10:54:35 AM				Transaction			
MCR	5/4/2022	TL052022			Pre-Release		\$13.70	-----
	7:15:27 AM				Transaction			
MCR	4/22/2022	XICPO422			Inmate Co-pay	(\$2.00)		\$172.55
	12:17:19 PM							
MCR	4/14/2022	5			Sales	(\$141.90)		\$174.55
	7:47:27 AM							
MCR	4/10/2022	33322100			Western Union	\$200.00		\$316.45
	8:08:36 PM							
MCR	4/10/2022	33322100			Pre-Release		(\$10.00)	-----
	8:08:36 PM				Transaction			
MCR	4/9/2022	TL042022			Pre-Release		\$5.00	-----
	7:21:58 PM				Transaction			
MCR	4/9/2022	TL0409			TRUL	(\$5.00)		\$116.45
	7:20:24 PM				Withdrawal			
MCR	3/29/2022	59			Sales	(\$103.70)		\$121.45
	12:57:01 PM							
MCR	3/25/2022	TL0325			TRUL	(\$5.00)		\$225.15
	5:50:01 PM				Withdrawal			
MCR	3/25/2022	33322084			Western Union	\$150.00		\$230.15
	10:06:51 AM							
MCR	3/25/2022	33322084			Pre-Release		(\$7.50)	-----
	10:06:51 AM				Transaction			

MCR	3/10/2022	TL0310	TRUL	(\$2.00)	\$82.15
	2:27:36 PM		Withdrawal		
MCR	3/8/2022	64	Sales	(\$54.85)	\$84.15
	12:03:01 PM				
MCR	3/5/2022	TL032022	Pre-Release		\$3.00
	7:12:42 AM		Transaction		
MCR	3/4/2022	33322063	Western Union	\$60.00	\$139.00
	4:08:30 PM				
MCR	3/4/2022	33322063	Pre-Release		(\$3.00)
	4:08:30 PM		Transaction		
MCR	2/28/2022	TL0228	TRUL	(\$2.00)	\$79.00
	8:07:33 AM		Withdrawal		
MCR	2/23/2022	TL0223	TRUL	(\$5.00)	\$81.00
	2:43:14 PM		Withdrawal		
MCR	2/17/2022	TL0217	TRUL	(\$5.00)	\$86.00
	9:12:54 AM		Withdrawal		
MCR	2/10/2022	15	Sales	(\$55.95)	\$91.00
	7:59:36 AM				
MCR	2/8/2022	TL0208	TRUL	(\$5.00)	\$146.95
	12:34:08 PM		Withdrawal		
MCR	2/3/2022	XIPPO122	Payroll - IPP	\$5.40	\$151.95
	8:40:55 AM				
MCR	2/3/2022	XIPPO122	Pre-Release		(\$0.27)
	8:40:55 AM		Transaction		
MCR	1/28/2022	TL012022	Pre-Release		\$145.00
	2:23:38 PM		Transaction		
MCR	1/28/2022	TL0128	TRUL	(\$2.00)	\$146.55
	2:22:44 PM		Withdrawal		
MCR	1/18/2022	23	Sales	(\$181.05)	\$148.55
	8:57:12 AM				
MCR	1/10/2022	XIPPI221	Payroll - IPP	\$7.20	\$329.60
	2:27:59 PM				
MCR	1/10/2022	XIPPI221	Pre-Release		(\$0.36)
	2:27:59 PM		Transaction		
MCR	12/14/2021	33321348	Western Union	\$150.00	\$322.40
	8:08:06 PM				
MCR	12/14/2021	33321348	Pre-Release		(\$7.50)
	8:08:06 PM		Transaction		

12

Total Transactions: 69

Totals: (\$367.05) \$185.30

Current Balances

<u>Alpha</u>	<u>Available</u>	<u>Pre-</u>	<u>Debt</u>	<u>SPO</u>	<u>Other</u>	<u>Outstanding</u>	<u>Administrative</u>	<u>Account</u>
<u>Code</u>	<u>Balance</u>	<u>Release</u>	<u>Encumbrance</u>	<u>Encumbrance</u>	<u>Encumbrance</u>	<u>Instruments</u>	<u>Holds</u>	<u>Balance</u>
MCR	\$181.20	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$181.20
Totals:	\$181.20	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$181.20

Other Balances

<u>National 6</u>	<u>National 6</u>	<u>National 6</u>	<u>Local Max</u>	<u>Average</u>	<u>Commissary</u>	<u>Commissary</u>
<u>Months</u>	<u>Months</u>	<u>Months Avg</u>	<u>Balance - Prev</u>	<u>Balance - Prev</u>	<u>Restriction</u>	<u>Restriction End</u>
<u>Deposits</u>	<u>Withdrawals</u>	<u>Daily Balance</u>	<u>30 Days</u>	<u>30 Days</u>	<u>Start Date</u>	<u>Date</u>
\$795.80	\$937.00	\$129.62	\$183.20	\$144.89	N/A	N/A