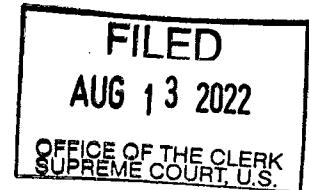


22-5376

ORIGINAL

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES



JERICOMATIAS CRUZ — PETITIONER
(Your Name)

vs.

UNITED STATES OF AMERICA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. COURT OF APPEALS FOR THE SEVENTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

JERICOMATIAS CRUZ
(Your Name)

5135 N KEATING AVE
(Address)

CHICAGO, IL 60630
(City, State, Zip Code)

847-906-3123
(Phone Number)

QUESTION(S) PRESENTED

- (1) PRIOR TO PRO SE PLAINTIFF-APPELLANT JERICOMATIAS CRUZ'S MOTION FOR IN FORMA PAUPERIS WITH AFFIDAVIT ACCOMPANYING MOTION FOR PERMISSION TO APPEAL IN FORMA PAUPERIS, PRO SE PLAINTIFF-APPELLANT JERICOMATIAS CRUZ'S MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS IN THE U. S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION, HONORABLE HARRY D. LEAVENWEBER, JUDGE, PRESIDING IS GRANTED, DID PRO SE PLAINTIFF-APPELLANT JERICOMATIAS CRUZ VIOLATE RULES 27(a)(2)(B)(ii) AND 27(a)(2)(B)(iii) OF FEDERAL RULES OF APPELLATE PROCEDURE AND CIRCUIT RULE 3(b) AT THE U. S. COURT OF APPEALS FOR THE SEVENTH CIRCUIT?
- (2) DID PRO SE PLAINTIFF-APPELLANT JERICOMATIAS CRUZ MEET THE INCOME THRESHOLD REQUIREMENTS IMPLEMENTED BY THE U. S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, UNDER THE PROVISIONS OF 28 U. S. CODE SECTION 1915?
- (3) IF PRO SE PLAINTIFF-APPELLANT JERICOMATIAS CRUZ IS GRANTED BY THE U. S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION, TO ^{LEAVE} PROCEED IN FORMA PAUPERIS, ISN'T PRO SE PLAINTIFF-APPELLANT JERICOMATIAS CRUZ ALLOWED TO PROCEED IN FORMA PAUPERIS AT THE U. S. COURT OF APPEALS FOR THE SEVENTH CIRCUIT UNDER THE PROVISIONS OF RULE 24(a)(5) OF FEDERAL RULES OF APPELLATE PROCEDURE?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

- *Cruz v. USA*, No. 21-CV-5007, U.S. District Court for the Northern District of Illinois. Judgement entered ~~February 10, 2022~~^{TM 08/02/2022}.
- *Cruz v. USA*, No. 22-1404, U.S. Court of Appeals for the Seventh Circuit. Judgment entered ~~May 18, 2022~~.

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

- reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

- reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

- reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

- reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was MAY 18, 2022.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

PRO SE PLAINTIFF-APPELLANT JERICOMATEAS CRUZ IS ALLOWED TO PROCEED IN FORMA PAUPERIS IN THE DISTRICT COURT, WHICH IS GRANTED BY HONORABLE HARRY D. LEINENWEBER, JUDGE, PRESIDING ON OCTOBER 4, 2021 AT THE U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION PURSUANT TO 28 U.S. CODE SECTION 1915(a)(1).

"SUBJECT TO SUBSECTION (b), ANY COURT OF THE UNITED STATES MAY AUTHORIZE THE COMMENCEMENT, PROSECUTION OR DEFENSE OF ANY SUIT, ACTION OR PROCEEDING, CIVIL OR CRIMINAL, OR APPEAL THEREIN, WITHOUT PREPAYMENT OF FEES OR SECURITY THEREFOR, BY A PERSON WHO SUBMITS AN AFFIDAVIT THAT INCLUDES A STATEMENT OF ALL ASSETS SUCH PRISONER POSSESSES THAT THE PERSON IS UNABLE TO PAY SUCH FEES OR GIVE SECURITY THEREFOR...." 28 U.S. CODE SECTION 1915(a)(1).

PRO SE PLAINTIFF-APPELLANT JERICOMATEAS CRUZ IS ALLOWED TO PROCEED IN FORMA PAUPERIS IN THE U.S. COURT OF APPEALS FOR THE SEVENTH CIRCUIT WITHIN 30 DAYS AFTER SERVICE OR ORDER OF THE DISTRICT COURT PURSUANT TO RULE 24(a)(5) OF FEDERAL RULES OF APPELLATE PROCEDURE.

"A PARTY MAY FILE A MOTION TO PROCEED ON APPEAL IN FORMA PAUPERIS IN THE COURT OF APPEALS WITHIN 30 DAYS AFTER SERVICE OF THE NOTICE PRESCRIBED IN RULE 24(a)(4). THE MOTION MUST INCLUDE A COPY OF THE AFFIDAVIT FILED IN THE DISTRICT COURT AND THE DISTRICT COURT'S STATEMENT OF REASONS FOR ITS ACTIONS. IF NO AFFIDAVIT WAS FILED IN THE DISTRICT COURT, THE PARTY MUST INCLUDE THE AFFIDAVIT PRESCRIBED BY RULE 24(a)(1)."

F. R. A.P. R 24(a)(5).

STATEMENT OF THE CASE

ON OR ABOUT NOVEMBER 13, 2020, PRO SE PLAINTIFF-APPELLANT JERICHO MATIAS CRUZ FILES A FEDERAL FREEDOM OF INFORMATION ACT ("FOIA"), 5 U.S. CODE SECTION 552 ABOUT THE VA POLICE REPORT DATED ON DECEMBER 7, 2017.

ON OR ABOUT NOVEMBER 20, 2020, DEFENDANT-APPELLEE UNITED STATES OF AMERICA'S FINAL RESPONSE CONCLUDES THAT JESSE BROWN VA MEDICAL CENTER POLICE TRANSITIONS FROM UAPS TO REPORT EXEC IN 2019.

ON OR ABOUT JANUARY 11, 2021, PRO SE PLAINTIFF-APPELLANT JERICHO MATIAS CRUZ FILES A REQUEST FOR REVIEW OR AN INTERNAL APPEAL FOR FOIA REQUEST NO. 21-01441-FP TO THE OFFICE OF THE GENERAL COUNSEL (24), THE U.S. DEPARTMENT OF VETERANS AFFAIRS, WHICH IS LOCATED AT 810 VERNON AVE, N.W., WASHINGTON D.C. 20420.

ON OR ABOUT AUGUST 26, 2021, PRO SE PLAINTIFF-APPELLANT JERICHO MATIAS CRUZ'S INTERNAL FOIA APPEAL IS DENIED DUE TO THE INSTALLATION OF A NEW RECORD-KEEPING SYSTEM, REPORT EXEC.

ON OR ABOUT SEPTEMBER 21, 2021, PRO SE PLAINTIFF-APPELLANT JERICHO MATIAS CRUZ FILES AN ADMINISTRATIVE PROCEDURE ACT/REVIEW LAWSUIT AGAINST DEFENDANT-APPELLEE UNITED STATES OF AMERICA TO THE U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION PURSUANT TO FED. R. CIV. P. 8(a) AND 10, 5 U.S. CODE SECTION 552, 28 U.S. CODE SECTIONS 723(b), 723(c), 1343, 1367, AND 2071.

ON OR ABOUT OCTOBER 4, 2021, HONORABLE HARRY D. LEINENWEBER, JUDGE, PRESIDING GRANTS PRO SE PLAINTIFF-APPELLANT JERICHO MATIAS CRUZ'S MOTION TO PROCEED IN FORMA PAUPERIS.

ON OR ABOUT DECEMBER 3, 2021, DEFENDANT-APPELLEE UNITED STATES OF AMERICA FILES AN ANSWER TO PRO SE PLAINTIFF-APPELLANT JERICHO MATIAS CRUZ'S COMPLAINT.

ON OR ABOUT DECEMBER 21, 2021, JUDGE LEINENWEBER ISSUES A COURT ORDER TO DISMISSED FOR WANT OF PROSECUTION AGAINST PRO SE PLAINTIFF-APPELLANT JERICHO MATIAS CRUZ FOR FAILURE TO APPEAR DURING TELEPHONIC CONFERENCE OR STATUS HEARING.

ON OR ABOUT DECEMBER 25, 2021, PRO SE PLAINTIFF-APPELLANT JERICHO MATIAS CRUZ FILES A MOTION TO VACATE DISMISSED FOR WANT OF PROSECUTION PURSUANT TO FED. R. CIV. P. 60(b)(6).

ON OR ABOUT JANUARY 13, 2022, JUDGE LEINENWEBER GRANTS PRO SE PLAINTIFF-APPELLANT JERICHO MATIAS CRUZ'S MOTION TO VACATE DISMISSED FOR WANT OF PROSECUTION.

ON OR ABOUT FEBRUARY 10, 2022, JUDGE LEINENWEBER DISMISSES THE CASE SET FORA ON THE RECORD VIA TELEPHONE CONFERENCE OR HEARING DUE TO DEFENDANT-APPELLEE UNITED STATES OF AMERICA CANNOT LOCATE (4) THE DOCUMENTS.

ON OR ABOUT MARCH 13, 2022, PRO SE PLAINTIFF-APPELLANT FILES A NOTICE OF APPEAL TO THE CLERK OF THE U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS.

ON OR ABOUT MARCH 16, 2022, PRO SE PLAINTIFF-APPELLANT JERICHO MATIAS CRUZ FILES A MOTION AND NOTICE OF MOTION FOR PERMISSION TO APPEAL IN FORMA PAUPERIS.

ON OR ABOUT MAY 18, 2022, THE U.S. COURT OF APPEALS FOR THE SEVENTH CIRCUIT DISMISSES THE CASE NO. 22-1404 FOR NON-PAYMENT PURSUANT TO CIRCUIT RULE 3(b).

REASONS FOR GRANTING THE PETITION

08/12/2022

THE UNITED STATES SUPREME COURT SHOULD REVIEW PRO SE PLAINTIFF-~~APPELLANT~~^{THE} JERICOMATIAS CRUZ'S PETITION FOR WRIT OF CERTIORARI FOR THE JUDICIAL DISCRETION PURSUANT TO ^{U.S.} SUPREME COURT RULE 10(a);

- (1) THE U.S. COURT OF APPEALS FOR THE SEVENTH CIRCUIT ERRS TO REVIEW THE INITIAL APPLICATION OF PRO SE PLAINTIFF-APPELLANT JERICOMATIAS CRUZ'S MOTION TO PROCEED IN FORMA PAUPERIS, WHICH IS GRANTED BY HONORABLE HARRY D. LEENENWEBER, JUDGE, PRESIDING ON OCTOBER 4, 2021, AT THE U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION. SEE Hayes v. United States, 258 F.2d 400 (5th Cir., 1958), cert. den. 358 U.S. 856, 79 S. Ct. 87, 3 L. Ed. 2d 89 (1958);
- (2) THE U.S. COURT OF APPEALS FOR THE SEVENTH CIRCUIT ERRS TO REVIEW THE INITIAL APPLICATION OF PRO SE PLAINTIFF-APPELLANT JERICOMATIAS CRUZ'S MOTION TO PROCEED IN FORMA PAUPERIS, WHICH IS GRANTED BY THE DISTRICT COURT PURSUANT TO 28 U.S. CODE SECTION 1915(a). ^{08/12/2022 SEE ELKHORN} v. United States, 250 F.2d 145 (9th Cir., 1957) ^{AND} see 364 U.S. 206, 80 S. Ct. 1437, 4 L. Ed. 2d 1669 (1960); AND
- (3) THE U.S. COURT OF APPEALS FOR THE SEVENTH CIRCUIT ERRS TO REVIEW THE CONTENT OF THE AFFIDAVIT ACCOMPANYING MOTION FOR PERMISSION TO APPEAL IN FORMA PAUPERIS PURSUANT TO RULE 24(a)(5) OF PRO SE PLAINTIFF-APPELLANT JERICOMATIAS CRUZ'S MOTION FOR PERMISSION TO APPEAL IN FORMA PAUPERIS. ^{SEE McGANN v. UNITED STATES, 362 U.S. 309, 80 S. Ct. 725, 4 L. ED. 2d 734 (1960); RAGAN v. COX, 305 F.2d 58 (10th Cir., 1962).}

WHEREFORE, THE UNITED STATES SUPREME COURT SHOULD VACATE THE OPINION OF THE U.S. COURT OF APPEALS FOR THE SEVENTH CIRCUIT AND SHOULD REMAND THE CASE TO THE U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS FOR FURTHER COURT PROCEEDING.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

JERICO MATIAS CRUZ

Date: 08/13/2022