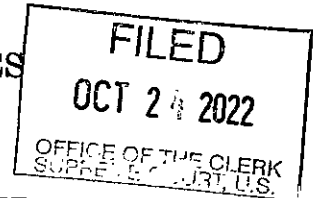


No. 22-6187

ORIGINAL

IN THE  
SUPREME COURT OF THE UNITED STATES



DEMETRIO LIFRIERI — PETITIONER  
(Your Name)

VS.

JAMES STINSON — 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

Eastern District of New York

☐ 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: 3006A  
The Criminal Justice Act, or

☒ a copy of the order of appointment is appended.

*Demetrio Lifrieri*  
(Signature)

2008 WL 2323378

Only the Westlaw citation is currently available.

United States District Court,  
E.D. New York.

Demetrio LIFRIERI, Petitioner,

v.

James STINSON, Respondent.

Nos. 97-CV-6868, 03-MISC-0066.

|

April 17, 2008.

**Attorneys and Law Firms**

David H. Weiss, New York, NY, for Petitioner.

Thomas S. Burka, Victor Barall, Kings County District Attorney's Office, Brooklyn, NY, for Respondent.

**ORDER**

JACK B. WEINSTEIN, Senior District Judge.

\*1 Petitioner Demetrio LiFrieri moves pursuant to Rule 60(b) of the Federal Rules of Civil Procedure to vacate this court's denial of habeas relief. *See* LiFrieri's Rule 60(b) Motion dated Feb. 26, 2008, Docket Entry No. 61; *see also* Memorandum, Order and Judgment dated Aug. 19, 2003, Docket Entry No. 49.

The Magistrate Judge is respectfully requested to appoint counsel for petitioner pursuant to the Criminal Justice Act.

Respondent shall file a response on or before May 12, 2008. These papers shall be served on both petitioner and his counsel. A reply from petitioner or his counsel shall be filed on or before May 30, 2008.

A review of the record and applicable law shows that the current application only presents issues of law. An evidentiary hearing is not warranted. A non-evidentiary hearing shall take place on June 6, 2008 at 10:00 a.m. The warden is to have petitioner available via telephone so that he can have an opportunity to argue his motion.

SO ORDERED.

**All Citations**

Not Reported in F.Supp.2d, 2008 WL 2323378

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

I, DEMETRIO LIFRIERI, 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<br>the past 12 months |               | Amount expected<br>next month |               |
|--|---|---------------|-------------------------------|---------------|
|  | You   | Spouse        | You                           | Spouse        |
| Employment   | \$ <u>NONE</u>                                      | \$ <u>N/A</u> | \$ <u>NONE</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<br>(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<br>security, pensions,<br>annuities, insurance) | \$ <u>NONE</u>                                      | \$ <u>N/A</u> | \$ <u>NONE</u>                | \$ <u>N/A</u> |
| Disability (such as social<br>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<br>(such as welfare)                                     | \$ <u>NONE</u>                                      | \$ <u>N/A</u> | \$ <u>NONE</u>                | \$ <u>N/A</u> |
| Other (specify): _____   | \$ <u>NONE</u>                                      | \$ <u>N/A</u> | \$ <u>NONE</u>                | \$ <u>N/A</u> |
| <b>Total monthly income:</b>   | \$ <u>NONE</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 |
|----------|---------|---------------------|-------------------|
| none     | none    | none                | \$ none           |
|          |         |                     | \$                |
|          |         |                     | \$                |

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 |
|----------|---------|---------------------|-------------------|
| none     | 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 |
|---|-----------------|------------------------|
| none  | \$ none         | \$ 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 none

☐ Motor Vehicle #2  
Year, make & model none  
Value none

☐ Other assets  
Description NONE  
Value NONE

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**

NONE

\$ NONE

\$ N/A

\$                     

\$                     

\$                     

\$                     

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**

NONE

NONE

NONE

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

\$ 0

Are real estate taxes included? ☐ Yes ☐ No

Is property insurance included? ☐ Yes ☐ No

Utilities (electricity, heating fuel,  
water, sewer, and telephone)

\$ 0

\$ 0

Home maintenance (repairs and upkeep)

\$ 0

\$ 0

Food

\$ 0

\$ 0

Clothing

\$ 0

\$ 0

Laundry and dry-cleaning

\$ 0

\$ 0

Medical and dental expenses

\$ 0

\$ 0

|  | You         | Your spouse |
|--|-------------|-------------|
| Transportation (not including motor vehicle payments)  | \$ 0        | \$ 0        |
| Recreation, entertainment, newspapers, magazines, etc.   | \$ 0        | \$ 0        |
| Insurance (not deducted from wages or included in mortgage payments)                           |             |             |
| Homeowner's or renter's  | \$ 0        | \$ 0        |
| Life   | \$ 0        | \$ 0        |
| Health   | \$ 0        | \$ 0        |
| Motor Vehicle  | \$ 0        | \$ 0        |
| Other: <u>NONE</u>   | \$ 0        | \$ 0        |
| Taxes (not deducted from wages or included in mortgage payments)                               |             |             |
| (specify): <u>NONE</u>   | \$ 0        | \$ 0        |
| Installment payments   |             |             |
| Motor Vehicle  | \$ 0        | \$ 0        |
| Credit card(s)   | \$ 0        | \$ 0        |
| Department store(s)  | \$ 0        | \$ 0        |
| Other: <u>NONE</u>   | \$ 0        | \$ 0        |
| Alimony, maintenance, and support paid to others   | \$ 0        | \$ 0        |
| Regular expenses for operation of business, profession,<br>or farm (attach detailed statement) | \$ 0        | \$ 0        |
| Other (specify): <u>NONE</u>   | \$ 0        | \$ 0        |
| <b>Total monthly expenses:</b>   | <b>\$ 0</b> | <b>\$ 0</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? \_\_\_\_\_

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? \_\_\_\_\_

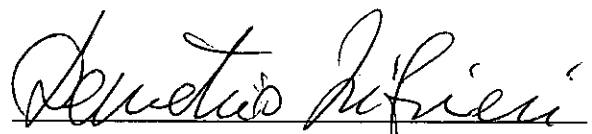
If yes, state the person's name, address, and telephone number:

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

I have been incarcerated for the past 31 years.

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

Executed on: October 20, 2022

  
(Signature)