

No. **22-7112**

THE SUPREME COURT OF THE UNITED STATES

ORIGINAL

Fuhai Li

Petitioner

v.

United States of America

Respondent

FILED

MAR 21 2023

OFFICE OF THE CLERK
SUPREME COURT, U.S.

Motion for Leave to Proceed in Forma Pauperis

NOW COMES Petitioner Fuhai Li, respectfully submits this motion for leave to proceed in forma pauperis pursuant to Rule 39 of this court, and in support thereof avers as follows:

1. Petitioner is unable to pay the cost of this litigation.
2. Petitioner's leave to proceed in forma pauperis has been granted in both the United States District Court for the Middle District of Pennsylvania and the United States Court of Appeals for the Third Circuit.
3. Petitioner's declaration in compliance with 28 U.S.C. §1746 in the form prescribed by the Federal Rules of Appellate Procedure, Form 4, is attached hereto.

WHEREFOR, Petitioner respectfully prays that this Honorable Court grant the instant motion.

Respectfully Submitted,

By: 

Fuhai Li, Pro Se

Reg # 75356-067

FCI McKean

P.O. Box 8000

Bradford, PA 16701

Date: March 20, 2023

RECEIVED

MAR 28 2023

OFFICE OF THE CLERK
SUPREME COURT, U.S.

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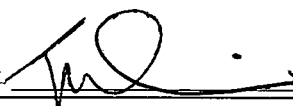
Respondent

No.

AFFIDAVIT ACCOMPANYING MOTION
FOR PERMISSION TO APPEAL IN FORMA PAUPERIS

Affidavit in Support of Motion

I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury under United States laws that my answers on this form are true and correct. (28 U.S.C. § 1746; 18 U.S.C. § 1621.)

Signed: 

Instructions

Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.

Date: March 20, 2023

My issues on appeal are:

1. The Court of appeals erred in denying Petitioner's request for a Certificate of Appealability (COA) when it sidestepped the COA process by deciding the merit first and thus decided Petitioner's appeal without jurisdiction.

2. The court of appeals erred in denying Petitioner's request for a COA when the district court's assessments of Petitioner's constitutional claims in the § 2255 motion were wrong or debatable.

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	\$ 288	\$ 3040	\$ 288	\$ 3040
Self-employment	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Income from real property (such as rental income)	\$ none	\$ none	\$ none	\$ none
Interest and dividends	\$ none	\$ none	\$ none	\$ none
Gifts	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Alimony	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Child support	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Retirement (such as social security, pensions, annuities, insurance)	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Disability (such as social security, insurance payments)	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Unemployment payments	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Public-assistance (such as welfare)	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Other (specify):	\$ none	\$ none	\$ none	\$ none
Total monthly income:	\$ 288	\$ 3040	\$ 288	\$ 3040

2. List your 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
Commissary	FCI McKean, Bradford PA 16701	October 7, 2021	\$ 288

			\$
			\$

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
Triboro Administrative Service	183 Forest St., Apt 1 Montclair, NJ 07042	December 20, 2020	\$ 3040
			\$
			\$

4. *How much cash do you and your spouse have?* \$ 756.04

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial Institution	Type of Account	Amount you have	Amount your spouse has
Wayne bank	Checking	\$ None	\$ 550.00
FCI	BOP Trulincs	\$ 206.04	\$ None
		\$ N/A	\$ N/A

If you are a prisoner, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

Institutional statement attached (see attachment)

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

Home	Other real estate	Motor vehicle #1
(Value) \$ 370,000	(Value) \$ N/A	(Value) \$ 500
		Make and year: Toyota, 2003

		Model: <u>Siena</u>
		Registration #: <u>GKP7258</u>

Motor vehicle #2	Other assets	Other assets
(Value) \$ <u>N/A</u>	(Value) \$ <u>N/A</u>	(Value) \$ <u>N/A</u>
Make and year: <u>N/A</u>	<u>N/A</u>	<u>N/A</u>
Model: <u>N/A</u>	<u>N/A</u>	<u>N/A</u>
Registration #: <u>N/A</u>	<u>N/A</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>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
↓	\$ ↓	\$ ↓
↓	\$ ↓	\$ ↓
↓	\$ ↓	\$ ↓

7. State the persons who rely on you or your spouse for support.

Name [or, if a minor (i.e., underage), initials only]	Relationship	Age
<u>Cindy Li</u>	<u>daughter</u>	<u>23</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, semiannually, or annually to show the monthly rate.

	You	Your Spouse
Rent or home-mortgage payment (including lot rented for mobile home)	\$	\$ 1,200
Are real estate taxes included? <input checked="" type="radio"/> Yes <input type="radio"/> No	None	
Is property insurance included? <input type="radio"/> Yes <input checked="" type="radio"/> No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ None	\$ 460
Home maintenance (repairs and upkeep)	\$ None	\$ 100
Food	\$ 200	\$ 500
Clothing	\$ 30	\$ 100
Laundry and dry-cleaning	\$ None	\$ None
Medical and dental expenses	\$ None	\$ 80
Transportation (not including motor vehicle payments)	\$ None	\$ 200
Recreation, entertainment, newspapers, magazines, etc.	\$ None	\$ 50
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's:	\$ None	\$ None
Life:	\$ None	\$ None
Health:	\$ None	\$ 100
Motor vehicle:	\$ None	\$ 100
Other:	\$ None	\$ None
Taxes (not deducted from wages or included in mortgage payments) (specify): Local taxes	\$ None	\$ 25
Installment payments		
Motor Vehicle:	\$ None	\$ None
Credit card (name):	\$ None	\$ None
Department store (name):	\$ None	\$ None
Other:	\$ 50	\$ None
Alimony, maintenance, and support paid to others	\$ 50	\$ None

Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ N/A	\$ N/A
Other (specify): HOA fee	\$ N/A	\$ 133
Total monthly expenses:	\$ 330	\$ 3048

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? \$ N/A

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? \$ N/A

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 docket fees for your appeal.

We (my wife and I) still owe rear real estate taxes, HOA fees and sewer dues in a total of \$25,016.49 due to financial hardship after the government seized and forfeited all bank accounts and other assets jointly owned by my wife and me.

13. State the [city and state] of your legal residence.

East Stroudsburg, PA 18302

Your daytime phone number: () N/A

Your age: 58 Your years of schooling: post-graduate