

23-5768 **ORIGINAL**
No. USAP921-56342

IN THE
SUPREME COURT OF THE UNITED STATES

FILED
AUG 07 2023

OFFICE OF THE CLERK
SUPREME COURT, U.S.

FRANK NATHAN ESCALANTE — PETITIONER
(Your Name)

VS.

JIM ROBERTSON, Warden — 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):

Los Angeles Superior Court, 111 N. Hill Street, Los Angeles,
California 90012

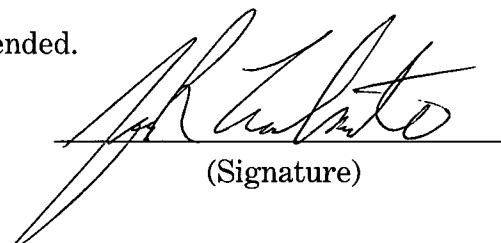
Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

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: _____
_____, or

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, FRANK NATHAN ESCALANTE, 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>40.89</u>	\$ <u>/</u>	\$ <u>0</u>	\$ <u>/</u>
Self-employment	\$ <u>/</u>	\$ <u>/</u>	\$ <u>/</u>	\$ <u>/</u>
Income from real property (such as rental income)	\$ <u>/</u>	\$ <u>/</u>	\$ <u>/</u>	\$ <u>/</u>
Interest and dividends	\$ <u>/</u>	\$ <u>/</u>	\$ <u>/</u>	\$ <u>/</u>
Gifts	\$ <u>/</u>	\$ <u>/</u>	\$ <u>/</u>	\$ <u>/</u>
Alimony	\$ <u>/</u>	\$ <u>/</u>	\$ <u>/</u>	\$ <u>/</u>
Child Support	\$ <u>/</u>	\$ <u>/</u>	\$ <u>/</u>	\$ <u>/</u>
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>/</u>	\$ <u>/</u>	\$ <u>/</u>	\$ <u>/</u>
Disability (such as social security, insurance payments)	\$ <u>/</u>	\$ <u>/</u>	\$ <u>/</u>	\$ <u>/</u>
Unemployment payments	\$ <u>/</u>	\$ <u>/</u>	\$ <u>/</u>	\$ <u>/</u>
Public-assistance (such as welfare)	\$ <u>/</u>	\$ <u>/</u>	\$ <u>/</u>	\$ <u>/</u>
Other (specify): <u> </u>	\$ <u>/</u>	\$ <u>/</u>	\$ <u>/</u>	\$ <u>/</u>
Total monthly income:	\$ <u>40.89</u>	\$ <u>/</u>	\$ <u>0</u>	\$ <u>/</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
California Corrections (inmate pay number)	P.O. Box 7500 Crescent City, CA 95532	Year 2021-2023	\$ 40.89 (highest pay grade) \$ \$

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			\$ \$ \$

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

Other real estate
Value _____ \$

Motor Vehicle #1
Year, make & model _____ \$
Value _____

Motor Vehicle #2
Year, make & model _____ \$
Value _____

Other assets
Description _____ \$
Value _____

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>0</u>	\$ <u>0</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>None</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>0</u>	\$ <u>1</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>0</u>	\$ <u>1</u>
Home maintenance (repairs and upkeep)	\$ <u>0</u>	\$ <u>1</u>
Food	\$ <u>0</u>	\$ <u>1</u>
Clothing	\$ <u>0</u>	\$ <u>1</u>
Laundry and dry-cleaning	\$ <u>12.00</u>	\$ <u>1</u>
Medical and dental expenses	\$ <u>0</u>	\$ <u>1</u>

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ /	\$ /
Recreation, entertainment, newspapers, magazines, etc.	\$ /	\$ /
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ /	\$ /
Life	\$ /	\$ /
Health	\$ /	\$ /
Motor Vehicle	\$ /	\$ /
Other: _____	\$ 0	\$ /
Taxes (not deducted from wages or included in mortgage payments)		
(specify): <u>Victim Restitution CA Penal Code § 1202.4(f)</u> \$ <u>20.44</u>	\$ /	
Installment payments		
Motor Vehicle	\$ /	\$ /
Credit card(s)	\$ /	\$ /
Department store(s)	\$ /	\$ /
Other: _____	\$ /	\$ /
Alimony, maintenance, and support paid to others	\$ /	\$ /
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ /	\$ /
Other (specify): <u>hygiene products (eg. toothpaste, etc)</u>	\$ 15.00	\$ /
Total monthly expenses:	<u>\$ 47.44</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.

Yes, my income has been affected. I had a job change, and I'm now enrolled in a vocational class. See appendix

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? _____

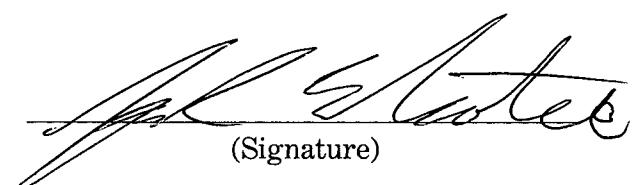
If yes, state the person's name, address, and telephone number:

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

Yes, I've attached a fee waiver that has been granted as proof to show that I cannot pay the costs of this case. Of course, this was in a Los Angeles court room. See Appendix.

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

Executed on: September 11th, 2023


(Signature)

Appendix
6 pages

FW-003

Order on Court Fee Waiver
(Superior Court)

587-2914

Clerk stamps date here when form is filed.

① Person who asked the court to waive court fees:

Name: Frank Nathan Escalante (DC#AX5865)Street or mailing address: P.O. Box 7500City: Crescent City State: CA Zip: 95532② Lawyer, if person in ① has one (name, firm name, address, phone number, e-mail, and State Bar number):

Electronically FILED
Superior Court of California
County of Los Angeles
5/8/2023 2:50 PM
David W. Slayton
Executive Officer/Clerk of Court,
By S. Katourjian, Deputy Clerk
Pursuant to Government Code 68150(g)
any order signed or verified by computer
shall have the same validity and legal
force and effect as paper documents.

Fill in court name and street address:

Superior Court of California, County of

Los Angeles Superior Court
Probate Dept., Room 429
111 N. Hill Street
Los Angeles, CA 90012

Fill in case number and name:

Case Number:

23 STPB 02685

Case Name: ESTATE OF
FRANK ESCALANTE

③ A request to waive court fees was filed on (date): MAY 08 2023
 The court made a previous fee waiver order in this case on (date): _____

Read this form carefully. All checked boxes are court orders.

Notice: The court may order you to answer questions about your finances and later order you to pay back the waived fees. If this happens and you do not pay, the court can make you pay the fees and also charge you collection fees. If there is a change in your financial circumstances during this case that increases your ability to pay fees and costs, you must notify the trial court within five days. (Use form FW-010.) If you win your case, the trial court may order the other side to pay the fees. If you settle your civil case for \$10,000 or more, the trial court will have a lien on the settlement in the amount of the waived fees. The trial court may not dismiss the case until the lien is paid.

④ After reviewing your: Request to Waive Court Fees Request to Waive Additional Court Fees
the court makes the following orders:

a. The court grants your request, as follows:

(1) **Fee Waiver.** The court grants your request and waives your court fees and costs listed below. (Cal. Rules of Court, rules 3.55 and 8.818.) You do not have to pay the court fees for the following:

- Filing papers in superior court
- Making copies and certifying copies
- Sheriff's fee to give notice
- Reporter's fee for attendance at hearing or trial, if the court is not electronically recording the proceeding and you request that the court provide an official reporter
- Assessment for court investigations under Probate Code section 1513, 1826, or 1851
- Preparing, certifying, copying, and sending the clerk's transcript on appeal
- Holding in trust the deposit for a reporter's transcript on appeal under rule 8.130 or 8.834
- Making a transcript or copy of an official electronic recording under rule 8.835

(2) **Additional Fee Waiver.** The court grants your request and waives your additional superior court fees and costs that are checked below. (Cal. Rules of Court, rule 3.56.) You do not have to pay for the checked items.

- Jury fees and expenses
- Fees for court-appointed experts
- Other (specify): _____

- Fees for a peace officer to testify in court
- Court-appointed interpreter fees for a witness

Your name: FRANK NATHAN ESCALANTE

Case Number:

23 STPB 02685

b. The court denies your fee waiver request because:

Warning! If you miss the deadline below, the court cannot process your request for hearing or the court papers you filed with your original request. If the papers were a notice of appeal, the appeal may be dismissed.

(1) Your request is incomplete. You have 10 days after the clerk gives notice of this Order (see date of service on next page) to:

- Pay your fees and costs, or
- File a new revised request that includes the incomplete items listed:
 Below On Attachment 4b(1)

(2) The information you provided on the request shows that you are not eligible for the fee waiver you requested for the reasons stated: Below On Attachment 4b(2)

The court has enclosed a blank *Request for Hearing About Court Fee Waiver Order (Superior Court)* (form FW-006). You have 10 days after the clerk gives notice of this order (see date of service below) to:

- Pay your fees and costs in full or the amount listed in c below, or
- Ask for a hearing in order to show the court more information. (Use form FW-006 to request hearing.)

c. (1) The court needs more information to decide whether to grant your request. You must go to court on the date on page 3. The hearing will be about the questions regarding your eligibility that are stated:

Below On Attachment 4c(1)

(2) Bring the items of proof to support your request, if reasonably available, that are listed:

Below On Attachment 4c(2)

This Is a Court Order.

Your name: FRANK NATHAN ESCALANTE

Case Number:

23 STPB 02685

Name and address of court if different from above:

Hearing Date

Date: _____ Time: _____
Dept.: _____ Room: _____

Warning! If item c(1) is checked, and you do not go to court on your hearing date, the judge will deny your request to waive court fees, and you will have 10 days to pay your fees. If you miss that deadline, the court cannot process the court papers you filed with your request. If the papers were a notice of appeal, the appeal may be dismissed.

05/08/2023


 Mark S. Piver
 Signature of COMMISSIONER Judicial Officer
 Clerk, Deputy

Request for Accommodations



Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office for *Request for Accommodations by Persons With Disabilities and Response* (form MC-410). (Civ. Code, § 54.8.)

Clerk's Certificate of Service

I certify that I am not involved in this case and (check one):

I handed a copy of this Order to the party and attorney, if any, listed in ① and ②, at the court, on the date below.

This order was mailed first class, postage paid, to the party and attorney, if any, at the addresses listed in ① and ②, from (city): Los Angeles, California, on the date below.

A certificate of mailing is attached.

Date: 5/8/23

S. Katourjian

Clerk, by _____, Deputy
Name: S. Katourjian

This is a Court Order.

Wach He

CDCR
REPORT NO. IJPR130 - 42

INMATE MONTHLY TIME LOG

FOR: April, 2023

PAGE: 1 of 1

PROCESSED: 04/28/2023 12:06

REQUESTOR: J. Meltzer

CDC #: AX5865

FACILITY: PBSP-Facility A

INMATE NAME: Escalante, Frank Nathan

HOUSING: A 006 1-129001L

DAY	TYPE OF DAY	FACILITY	POSITION #	POSITION TITLE	TIME IN	TIME OUT	HOURS PRESENT	TYPE OF TIME
01	RDO	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:30	6	R-Regular Day Off
02	RDO	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:30	6	R-Regular Day Off
03	MON	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:30	6	S-Security (Unable to Attend)
04	TUE	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:30	6	X-Present
05	WED	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:45	6.25	X-Present
06	THU	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:30	6	X-Present
07	FRI	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:30	6	X-Present
10	MON	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:30	6	X-Present
11	TUE	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:30	6	X-Present
12	WED	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:15	5.75	X-Present
13	THU	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:00	5.5	X-Present
14	FRI	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:15	5.75	X-Present
17	MON	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:30	6	X-Present
18	TUE	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:00	5.5	X-Present
19	WED	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:30	6	X-Present
20	THU	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:00	5.5	X-Present
21	FRI	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:15	5.75	X-Present
24	MON	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:15	5.75	X-Present
25	TUE	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:15	5.75	X-Present
26	WED	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:15	5.75	X-Present
27	THU	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:30	6	X-Present
28	FRI	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	07:00	12:15	5.25	X-Present

TOTALS:	HOURS PRESENT:	110.50 hrs	PAY RATE:	\$0.37 per hour	UNABLE TO ATTEND:	6.00 hrs	EXCUSED ABSENCE:	0.00 hrs	UNEXCUSED ABSENCE:	0.00 hrs	GRAND TOTAL:	116.50 hrs
---------	----------------	------------	-----------	-----------------	-------------------	----------	------------------	----------	--------------------	----------	--------------	------------

\$40.89 ÷ 2 = 20.44

CDCR
REPORT NO. IJPR130 - 42

INMATE MONTHLY TIME LOG

FOR: March, 2023

PAGE: 1 of 1

PROCESSED: 05/01/2023 08:35

REQUESTOR: J. Meltzer

CDC #: AX5865

FACILITY: PBSP-Facility A

INMATE NAME: Escalante, Frank Nathan

HOUSING: A 006 1-129001L

DAY	TYPE OF DAY	FACILITY	POSITION #	POSITION TITLE	TIME IN	TIME OUT	HOURS PRESENT	TYPE OF TIME
01	WED	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:15	5.75	X-Present
02	THU	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:15	5.75	E-Excused Absence
03	FRI	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:30	6	X-Present
06	MON	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:45	6.25	S-Security (Unable to Attend)
07	TUE	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:30	6	X-Present
08	WED	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:30	6	S-Security (Unable to Attend)
09	THU	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:30	6	S-Security (Unable to Attend)
10	FRI	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:00	5.5	X-Present
13	MON	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:45	6.25	X-Present
14	TUE	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:30	6	X-Present
15	WED	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:15	5.75	X-Present
16	THU	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:00	5.5	X-Present
17	FRI	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:30	6	X-Present
20	MON	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:30	6	X-Present
21	TUE	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:00	5.5	X-Present
22	WED	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:15	5.75	X-Present
23	THU	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:15	5.75	X-Present
24	FRI	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:00	5.5	X-Present
27	MON	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:30	6	X-Present
28	TUE	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:00	5.5	X-Present
29	WED	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:15	5.75	X-Present
			MKW.008.001	Main Kitchen Bakery-LEAD	12:15	12:30	0.25	X-Present
30	THU	PBSP-Facility A	MKW.008.001	Main Kitchen Bakery-LEAD	06:30	12:30	6	X-Present

TOTALS: HOURS PRESENT: 104.75 hrs PAY RATE: \$0.37 per hour UNABLE TO ATTEND: 18.25 hrs EXCUSED ABSENCE: 5.75 hrs UNEXCUSED ABSENCE: 0.00 hrs GRAND TOTAL: 128.75 hrs

3876

Job Change to Vocational Trade

INMATE ASSIGNMENT CARD		EFFECTIVE DATE:
CDC#:	AX5865	NAME: Escalante, Frank
FACILITY:	PBSP-A	HOUSING: A 006 1 - 129001L
LOCATION:	001 - Room 122	
POSITION:	V27.001.026 CTE Laborer	
DAY OF WEEK	START TIME	END TIME
Monday through Friday	06:45	12:45