

23-6657

No. \_\_\_\_\_

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

FILED

JAN 08 2024

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

ERICK CRUZ

— PETITIONER

(Your Name)

VS.

The People of the State of N.Y. — 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):

NY County Supreme Court - Appellate Divisions: First Dept.  
N.Y.S.

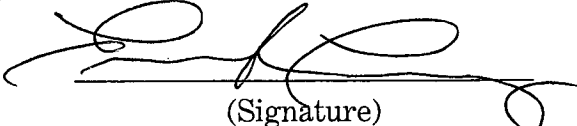
☐ Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

☒ 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: CPLR  
1101/CPLR 1102, or

☐ a copy of the order of appointment is appended.

  
(Signature)

Date 1/23/24

In The  
Supreme Court of the United States

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Erick Cruz,  
Petitioner, Pro se.

-against-

The People of the State of New York,  
Respondents.  
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**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 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 USC § 1621)

**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 in that response. If you need more space to answer a question or to explain your answer, attached a separate sheet of paper identified with your name, your case's docket number, and the question number.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Sworn to before me this

23<sup>rd</sup> day of January, 2024



JAMES L THOMPSON  
NOTARY PUBLIC, STATE OF NEW YORK  
Registration No. 01TH6383051  
Qualified in Orange County  
My Commission Expires: 11/13/2026

**My issues on appeal are:**

- Issue 1: During opening statements, whether the prosecutor's use of an hour long Powerpoint presentation with Mugshot like photographs (containing verbal and non-verbal annotations) remove the presumption of innocence, and/or otherwise shifts the burden of proof, is unconstitutional
- Issue 2: After four days of deliberations, over 20 notes, and expressed confusion by the jury, did the trial court's delivery, over defense counsel's objection, of an coercive and unbalanced Allen charge deprive the defendant of due process and a fair trial?
- Issue 3: What is the quantum of proof needed to convict of criminal possession and/or sale of a controlled substance
- 

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 deduction for taxes or otherwise.

Income Source	Average monthly amount during the past 12 months		Amount Expected Next Month	
	You	Spouse	You	Spouse
Employment	00.00	00.00	00.00	00.00
Self - Employment	00.00	00.00	00.00	00.00
Income from real property (such as rental income)	00.00	00.00	00.00	00.00
Interest and Dividends	00.00	00.00	00.00	00.00
Gifts	00.00	00.00	00.00	00.00
Alimony	00.00	00.00	00.00	00.00
Child support	00.00	00.00	00.00	00.00
Retirement (such as social security, pensions, annuities, insurance)	00.00	00.00	00.00	00.00
Disability (such as social security insurance payments)	00.00	00.00	00.00	00.00
Unemployment payments	00.00	00.00	00.00	00.00
Public-assistance (such as welfare)	00.00	00.00	00.00	00.00
Other (specify) _____	00.00	00.00	00.00	00.00
Total monthly income	00.00	00.00	00.00	00.00

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	Date of Employment	Gross Monthly Pay
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A

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	Date of Employment	Gross Monthly Pay
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A

4. How much cash do you and you spouse have? \$ 00.00

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
N/A	N/A	\$ 00.00	00.00
N/A	N/A	\$ 00.00	00.00
N/A	N/A	\$ 00.00	00.00

*If you are a prisoner asking to appeal a civil action, 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 institution, attach one certified statement of each account.*

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

Home	(Value) Other real estate
N/A	\$00.00
N/A	\$00.00
N/A	\$00.00

Motor Vehicle # 1	Value	00.00
Make & Year		N/A
Model		N/A
Registration #		N/A

<b>Motor Vehicle # 2</b>	<b>Value</b>	<b>00.00</b>
Make & Year		N/A
Model		N/A
Registration #		N/A

<b>Other Assets</b>	<b>Value</b>	<b>00.00</b>
N/A	00.00	00.00
N/A	00.00	00.00

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

<b>Person owing you or your spouse money</b>	<b>Amounts owed to you</b>	<b>Amount owed to your spouse</b>
N/A	00.00	00.00
N/A	00.00	00.00

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

<b><u>Name:</u></b>	<b><u>Relationship</u></b>	<b><u>Age</u></b>
Ashley Boozer	Step Daughter	21
Elisha Cruz	Daughter	20
E. C.	Son	15

6. 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 month rate.

<b>Item</b>	<b>You</b>	<b>Your Spouse</b>
Rent or home-mortgage payment (include lot rented for mobile home)	00.00	00.00
Are real-estate taxes included <input type="checkbox"/> Yes <input type="checkbox"/> No (n/a)	00.00	00.00
Utilities (electricity, heating fuel, water, sewer and telephone)	00.00	00.00
Home Maintenance (repairs and upkeep)	00.00	00.00
Food	00.00	00.00
Clothing	00.00	00.00
Laundry and dry-cleaning	00.00	00.00
Medical and dental expenses	00.00	00.00
Transportation (not including motor vehicle payments)	00.00	00.00
Recreation, entertainment, newspapers, magazines, etc.	00.00	00.00
Insurance (not deducted from wages or included in mortgage payments)	00.00	00.00
Homeowner's or renter's	00.00	00.00
Life	00.00	00.00
Health	00.00	00.00

Motor Vehicle	00.00	00.00
Other: <u>N/A</u>	00.00	00.00
Taxes (not deducted from wages or included in mortgage payments)(specify): <u>N/A</u>	00.00	00.00
Installment Payments	00.00	00.00
Motor Vehicle	00.00	00.00
Credit Card (name):	00.00	00.00
Department Store (name):	00.00	00.00
Other: <u>N/A</u>	00.00	00.00
Alimony, maintenance, and support paid to others	00.00	00.00
Regular expenses for operation of business, profession, or farm (attach detailed statement)	00.00	00.00
Other (specify): <u>N/A</u>	00.00	00.00
Total monthly expenses:	00.00	00.00

9. Do you expect and major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months? ☐ Yes ☒ No

If yes, how much? \$ N/A

10. Have you spent -- or will you be spending -- any money for expenses or attorney fees in connection with this lawsuit? ☐ Yes ☒ No

If yes, how much? \$ N/A

11. Provide any other information that will help explain why you cannot pay the docket fees for your appeal.

12. State the city and state of your legal residence: Otisville, New York

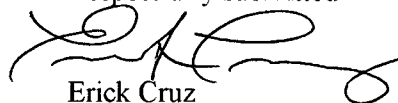
Your daytime phone number (N/A)N/A - N/A

I am an incarcerated individual

Your age: 51

Your years of schooling: 9<sup>th</sup> Grade

Respectfully submitted

  
Erick Cruz

Sworn to before me this  
23<sup>rd</sup> day of January, 2024

