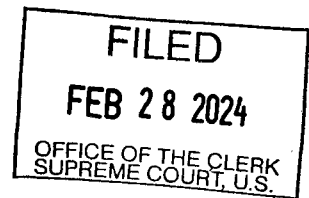


No. 23 - 7609



IN THE
SUPREME COURT OF THE UNITED STATES

DONALD WASHINGTON SR — PETITIONER
(Your Name)

VS.

CALIFORNIA SUPREME COURT — 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):

☒ 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.

Resubmitted MAY 10th 2024

Donald Washington Sr
(Signature)

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

I, Donald Washington Sr., 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	\$ 0	\$	\$ 0	\$
Self-employment	\$ 0	\$	\$ 0	\$
Income from real property (such as rental income)	\$ 0	\$	\$ 0	\$
Interest and dividends	\$ 0	\$	\$ 0	\$
Gifts	\$ 0	\$	\$ 0	\$
Alimony	\$ 0	\$	\$ 0	\$
Child Support	\$ 0	\$	\$ 0	\$
Retirement (such as social security, pensions, annuities, insurance)	\$ 0	\$	\$ 0	\$
Disability (such as social security, insurance payments)	\$ 0	\$	\$ 0	\$
Unemployment payments	\$ 0	\$	\$ 0	\$
Public-assistance (such as welfare)	\$ 0	\$	\$ 0	\$
Other (specify): <u>N/A</u>	\$ 0	\$	\$ 0	\$
Total monthly income:	\$ 0	\$	\$ 0	\$

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
N/A	N/A	0	\$ 0
			\$
			\$

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	N/A	0	\$ 0
			\$
			\$

4. How much cash do you and your spouse have? \$0.00
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
	\$	\$
	\$	\$
	\$	\$

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

☐ Home
Value N/A

☐ Other real estate
Value N/A

☐ Motor Vehicle #1
Year, make & model N/A
Value N/A

☐ Motor Vehicle #2
Year, make & model N/A
Value N/A

☐ Other assets
Description N/A
Value N/A

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
N/A	\$0.00	\$ 0.00
N/A	\$0.00	\$ 0.00
N/A	\$0.00	\$ 0.00

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
N/A		

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
N/A		
Rent or home-mortgage payment (include lot rented for mobile home)	\$0.00	\$
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)	\$ 0.00	\$
Home maintenance (repairs and upkeep)	\$ 0.00	\$
Food	\$ 0.00	\$
Clothing	\$ 0.00	\$
Laundry and dry-cleaning	\$ 0.00	\$
Medical and dental expenses	\$ 0.00	\$

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ <u>0.00</u>	\$ _____
Recreation, entertainment, newspapers, magazines, etc.	\$ <u>0.00</u>	\$ _____
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ <u>0.00</u>	\$ _____
Life	\$ <u>0.00</u>	\$ _____
Health	\$ <u>0.00</u>	\$ _____
Motor Vehicle	\$ <u>0.00</u>	\$ _____
Other: <u> N/A </u>	\$ <u>0.00</u>	\$ _____
Taxes (not deducted from wages or included in mortgage payments)		
(specify): <u> N/A </u>	\$ <u>0.00</u>	\$ _____
Installment payments		
Motor Vehicle <u> N/A </u>	\$ <u>0.00</u>	\$ _____
Credit card(s) <u> N/A </u>	\$ <u>0.00</u>	\$ _____
Department store(s) <u> N/A </u>	\$ <u>0.00</u>	\$ _____
Other: <u> N/A </u>	\$ <u>0.00</u>	\$ _____
Alimony, maintenance, and support paid to others	\$ <u>0.00</u>	\$ _____
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ <u>0.00</u>	\$ _____
Other (specify): <u> N/A </u>	\$ <u>0.00</u>	\$ _____
Total monthly expenses:	\$ <u>0.00</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.

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 am wholly without funds..I have been in prison the last 49 years because of ineffective assistance when my lawyer Public Defender refused to file "A Notice of Appeal 12/3rd1975 after sentencing to law precribed Five to Life

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

Executed on: FEBRUARY 28th, 2024

Donald Washington Sr.

(Signature)

Mr. Donald Washington Sr.,

B-69981 D2-210

CA State Prison-LA-County

P.O. BOX 4670

Lancaster, CA 93539-4670

DECLARATION

I, Donald Washington Sr.; hereby deposes this "MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS. Petitioner asks leave to proceed to file the attached Petition for Writ of Certiorari without prepayment of costs and to proceed IN FORMA PAUPERIS. Because no California Superior Court, No California Court of Appeal-APPELATE Court Nor the California Supreme Court Appointed Counsel!! Nor issued AN ORDER TO SHOW CAUSE. A Trial Counsel's obligations are well established. Gilbert v. Sowders, 646 F.2d 446(6th Cir.1981); Cleaver v. Bordenkircher, 634 F.2d 1010(6th Cir.1980); Beasley v. United States, 492 F.2d 687(6th Cir.1974); Ross v. Moffitt, 417 U.S. 600, 94 S.Ct. 2437, 41 L.Ed.2d 341(1974); Douglas v. California, 372 U.S. 353, 83 S.Ct. 814, 9 L.Ed.2d 811(1963); Evitts v. Lucey, No. 83-1378, 469 U.S. 387, 105 S.Ct. 830, 83 L.Ed.2d 821***1985 U.S. LEXIS 42***53 U.S.L.W. 4101. The plain language of the Sixth Amendment requires that 'in all criminal prosecutions the accused shall enjoy the right to have assistance of counsel for his defense.' Gideon v. Wainwright, 372 U.S. 335, 340 (quoting Betts v. Brady, 316 U.S. 455(1942)). This command of the Constitution has been interpreted to mean effective assistance of counsel. Glasser v. United States, 315 U.S. 60, 62 S.Ct. 437, 86 L.Ed. 680(1942). Effective Assistance of Counsel during criminal prosecutions is also "within the intendment of the Due Process Clause" of the Fourteenth Amendment. Powell v. Alabama, 287 U.S. 45, 66, 68-69, 53 S.Ct. 55, 63, 77 L.Ed. 158(1932). A defendant's need for a lawyer is nowhere better stated than, in the moving words of Mr. Justice Sutherland in Powell v. Alabama: "The right to be heard would be, in many cases of little avail if it did not comprehend the right to be heard by counsel. Even the intelligent and educated layman has small and sometimes no skill in the science of law. If charged with crime, he is incapable, generally of defining or determining for himself whether the indictment is good or bad. He is unfamiliar with, the rules of Evidence. Left without aid of counsel he may be put on trial without a proper charge, and convicted upon incompetent evidence, or evidence irrelevant to the issue or otherwise inadmissible. It leaves him a prey to the caprice and malice, and not

wise inadmissible. He lacks both the skill and knowledge adequately to prepare his defense, even though he have a perfect one. He requires the guiding hand of counsel at every step in the proceedings against him. Without it, though he be not guilty, he faces the danger of conviction because he does not know how to establish his innocence," 287 U.S. at 68-69. *Reece v. Georgia*, 350 U.S. 85, 89-90, 76 S.Ct. 167, 170-171, 100 L.Ed. 77 (1955). As we stated, made clear the guarantee of counsel "cannot be satisfied by mere formal appointment." *Avery v. Alabama*, 308 U.S. 444, 446 (1940) "That a person who happens to be a lawyer is present at trial along side the accused, however, is not enough to satisfy the Constitutional Command... an accused is entitled to be assisted by an attorney, whether retained or appointed, who plays the role necessary to ensure that the trial is fair. *Strickland v. Washington*, 466 U.S. at 685, See also *McMann v. Richardson*, 387 U.S. 759, 771 n.14 (1970) ("It has long been recognized that the right to counsel is the right to effective assistance of Counsel."). Cf. *Strickland v. Washington*, 466 U.S. 688 (1984); *United States v. Cronin*, 466 U.S. 648 (1984). The reason trial counsel must render effective assistance are not difficult to fathom, is aptly stated by Justice Rehnquist: "The purpose of the trial stage from the State's point of view is to convert a criminal defendant from a person presumed innocent to one found guilty beyond a reasonable doubt. To accomplish this purpose, the State employs a prosecuting attorney who presents evidence to the court, challenging any witnesses offered by the defendant, argues ruling of the Court and makes direct arguments to the Court and jury seeking to persuade them of the defendant's guilt. *Ross*, 417 U.S. at 618, 94 S.Ct. at 2444. See *McCoy v. Louisiana*, 138 S.Ct. 1500, 200 L.Ed. 2d 821 **2018 U.S. LEXIS 2802 ***86 U.S.L.W. 4271, 27 Fla.L.Weekly Fed S 244 2018 W.L. 2186174; *People v. Ibarra* (1963) 60 Cal.2d 460, 464, 34 Cal.Rptr 863, 386 P.2d 487. That "effective" counsel required by Due Process, however, is not errorless counsel, it is counsel "reasonably likely to render, and rendering reasonably effective assistance, In re Saunders, 2 Cal.3d 1033, 1039, 472 P.2d 921, 925, 88 Cal.Rptr 633, 637 1970 Cal LEXIS 326. *Brubaker v. Dicson* (9th Cir. 1962) 310 F.2d 30, 37. So I am a layman at law and Appointment of Counsel by the United States Supreme Court could further advance

the issue now before the Court in the furtherance of Justice. Cause I am wholly without funds to hire an Attorney at law in this matter now before this Honorable Court for Subjudice. I believe that the foregoing is true to the best of my knowledge. I declare under penalty of perjury is true based upon the above Declaration. See e.g. Boykin v. Tahl, 395 U.S. 238, 23 L.Ed.2d 274, 89 S.Ct. 1709 (1969); In re Tahl, 1 Cal.3d 122, 460 P.2d 499. Failure to perfect an Appeal "Boyd v. Cowan, 519 F.2d 182 (6th Cir. 1975); Woodall v. Neil, 444 F.2d 92 (6th Cir. 1971) Similarly, Appellate Counsel. Therefore the Beasley v. United States, 491 F.2d 687, 689 (6th Cir. 1974) standard that Counsel render reasonably effective assistance is applicable on Appeals of Right. Benoit v. Wingo, 423 F.2d 882 (6th Cir. 1970). To hold otherwise would undermine the well recognized purpose to granting, albeit gratuitously, an Appeal as Right. The harmless error Rule is not applicable where a denial of effective assistance of counsel is found. Beasley, 491 F.2d at 696.

Dated this 7th day of May 2024

Respectfully Submitted

s/ Donald Washington Sr

Mr. Donald Washington Sr. B-69981

In Propria Personam (Pro-Se)

CA State Prison-Los Angeles County

44750 60th St. West

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Lancaster, CA 93539-4670