

No.

IN THE SUPREME COURT OF THE UNITED STATES

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CLIFTON BEAN, PETITIONER

v.

STATE OF FLORIDA, RESPONDENT.

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*ON PETITION FOR A WRIT OF CERTIORARI TO THE SECOND  
DISTRICT COURT OF APPEAL OF FLORIDA*

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**PETITIONER'S MOTION TO PROCEED IN FORMA PAUPERIS**

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COMES NOW the Petitioner, Clifton Bean and moves this Court, pursuant to Rule 39.1, Rules of the Supreme Court, to declare him indigent and allow him to proceed in forma pauperis in this cause, in particular to waive any filing fees. As grounds therefore, Petitioner says:

1. Petitioner applies for a writ of certiorari to review the decision of the Second District Court of Appeal of Florida affirming his conviction and sentence for to two counts of sexual battery upon a child less than 12 years of age, two counts of lewd and lascivious molestation upon a child less than 12 years of age, sexual battery upon a child 12 years of age or older but younger than 18 years of age by a person in familial or custodial authority, and lewd and lascivious molestation upon a child 12 years of age or older but less than 18 years of age.

2. Petitioner was declared indigent when he was convicted.

3. Petitioner has been incarcerated since his conviction and has been indigent for all court proceedings since that time.

4. Petitioner is now indigent and without funds to pay any fees or costs in this action. The state court below appointed the Office of the Public Defender for Petitioner as an indigent party pursuant to section

27.51, Florida Statutes. Petitioner is currently represented on a pro bono basis.

5. Federal law requires all courts of the United States to allow commencement and prosecution of any suit without prepayment of fees or costs upon the showing made above. 28 U.S.C. §1915(a).

6. Refusal to allow Petitioner to proceed in forma pauperis would deny him equal protection of the law, meaningful access to the courts, and due process of law since he cannot otherwise get the review to which a more affluent defendant would be entitled. *See Burns v. Ohio*, 360 U.S. 252 (1959) (fees should be waived for discretionary appeal by indigent); *Smith v. Bennett*, 365 U.S. 708 (1961) (fees should be waived for indigent prisoner seeking state habeas relief).

WHEREFORE, Petitioner moves that this Court declare him indigent and allow filing and prosecution of his petition without payment of any fees or costs.

Respectfully submitted,

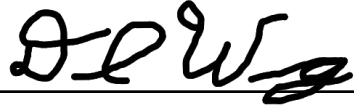
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A handwritten signature in black ink, appearing to read 'D. Wehking', is written over a horizontal line.

Daniel Wehking

Counsel of Record