

No.

IN THE SUPREME COURT OF THE UNITED STATES

PABLO GUTIERREZ, PETITIONER

v.

STATE OF FLORIDA, RESPONDENT.

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

PETITIONER’S MOTION TO PROCEED IN FORMA PAUPERIS

DANIEL EISINGER

Public Defender

Jeffrey L. Anderson *

Assistant Public Defender

Counsel of Record

Office of the Public Defender
Fifteenth Judicial Circuit of Florida
421 Third Street
West Palm Beach, FL 33401
(561) 355-7600

janderson@pd15.org

jcwalsh@pd15.org

appeals@pd15.org

* Member of the United States Supreme Court Bar

COMES NOW the Petitioner, Pablo Gutierrez, 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 Fourth District Court of Appeal of Florida affirming his convictions and sentences for three counts of sexual battery and two counts of lewd and lascivious molestation.

2. Since 2019, Petitioner has been incarcerated and declared indigent, and he proceeded as an indigent at his state court trial and during his state court appeal.

3. Petitioner continues to be indigent and without funds to pay any fees or costs in this action. The state court below appointed the Public Defender as counsel for Petitioner as an indigent party pursuant to sections 27.51 and 924.17, Florida Statutes (providing for appointment of counsel for indigents in criminal trial and appellate court cases, and authorizing in forma pauperis criminal appeals upon the court's

determination of the defendant's indigency); Fla. R. Crim. P. (providing counsel to indigents); Fla. R. App. P. 9.430 (providing for appellate proceedings by indigents).

4. 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).

5. 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,

DANIEL EISINGER
Public Defender
15th Judicial Circuit of Florida
421 Third Street
West Palm Beach, Florida 33401
(561) 355-7600

/s/ Jeffrey L. Anderson
Jeffrey L. Anderson, Esq.
Assistant Public Defender