

## **Declaration of Michael C. Haber**


I, Michael C. Haber, hereby declare that the following is true and correct to the best of my knowledge:

1. I am the father of Ton Ton Aquino, the petitioner in *United States v. Ton Ton Aquino*, on appeal from the Court of Appeals for the Eleventh Circuit.
2. On March 20, 2025, Ton Ton and I were notified that the Eleventh Circuit denied our petition for rehearing en banc and our request for reconsideration of its dismissal of Ton Ton's appeal. The appeal had been dismissed based on a plea waiver, which was entered before the court committed the error we sought to challenge. Ton Ton did not waive his right to challenge the error.
3. Ton Ton made it clear he wanted to appeal the Eleventh Circuit's decision. However, due to previous years of litigation there would be a strain on our funds. So cost would be a decisive factor in securing a lawyer. Since Ton Ton had recently been released from prison, was subject to post-release supervision obligations, and lacked financial resources due to his incarceration, I took the lead in searching for a qualified attorney with Ton Ton's concurrence. I am a retired military officer, and while Ton Ton went to work during the days, I was able to search for a lawyer to appeal to the US Supreme Court.
4. I began the search with a three-way conversation (Ton Ton, me and Mr Schwartz) with the attorney who had represented Ton Ton in the district and circuit courts. Mr. Schwartz told us Ton Ton had 90 days to file his petition for certiorari. Additionally, Mr. Schwartz informed us that he had not previously filed a petition for writ of certiorari before the Supreme Court and recommended that we seek an attorney experienced in that process. I began the search for an attorney quickly.
5. My search was nationwide. Over the course of roughly 7 weeks, I reached out to attorneys and firms in Washington, D.C., Savannah and Atlanta, Georgia, Washington D.C., Florida, Washington State, California, and Illinois. I submitted multiple online intake forms, made numerous phone calls, and left many voicemails. Most of my inquiries went unanswered. Those who did respond cited excessive workloads, were out of our budget range, or were not interested in pro-bono work. I expected an attorney for

cert petition to be expensive, but I was not able to get a quote within our budget range.

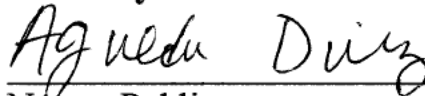
6. When my search was proving to be unsuccessful, and with deadlines approaching, I reconnected with Mr. Schwartz to discuss the possibilities of him taking the appeal. Following further discussion, he agreed to represent Ton Ton in his cert petition with a financial agreement that we could manage.
7. Because of the time that was lost during the attorney search and the complexity of preparing a petition for certiorari, especially for an attorney new to Supreme Court practice, Mr. Schwartz informed me that he would likely request additional time to file the petition. In support of his need for additional time, he asked me to explain my efforts in seeking counsel for Ton Ton, which I have done here.
8. Ton Ton is committed to pursuing legal remedies diligently. I have done what I can to assist him to the best of my ability in the time available to me. I hope my return to Mr. Schwartz was not too late.

Signed on the 15<sup>th</sup> day of May 2025,

  
Michael C. Haber



Subscribed and sworn to before me this 15 day of MAY, 2025, by Michael C. Haber, who is personally known to me or has produced satisfactory evidence of identity.

  
Notary Public

My commission expires: 11/17/25



AGUEDA DIAZ  
Notary Public  
State of Florida  
Comm# HH200116  
Expires 11/17/2025