

CASE NO: _____

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 2017

APPEAL NO. 16-17448-F

(Southern District of Florida No. 15-60317-BB)

DIANA P. LOVERA,
Petitioner,

vs.

THE UNITED STATES OF AMERICA,
Respondent.

PETITIONER DIANA LOVERA'S
MOTION FOR LEAVE TO PROCEED
IN FORMA PAUPERIS

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Petitioner Diana Lovera, through her CJA appellate counsel and pursuant to Rule 39 of the Supreme Court Rules moves this Court for leave to proceed with the present petition *in forma pauperis*, and states:

Petitioner Diana Lovera comes to this Court following the dismissal of her appeal by the Eleventh Circuit Court of Appeals based on an appeal waiver in her plea agreement. In the Southern District of Florida Ms. Lovera pled guilty to one count of mail and wire fraud. She was sentenced to prison for 20 months, and was ordered to pay restitution in the amount greater than \$6,300,000.00, even though her PSR and the parties agreed that she earned no more than \$134,00.00 during her employment at the subject corporation.

There is a meritorious reason presented in support of granting the writ, specifically in the exercise of its supervisory authority over the courts of the United States, this Court should grant relief where the Eleventh Circuit clearly and reversibly erred and abused its discretion in dismissing Diana Lovera's appeal based upon an appeal waiver in her plea agreement, when the district court ordered her to pay restitution in an amount exceeding six million dollars because the appeal waiver in the plea agreement was unenforceable and invalid based upon this grossly unjust and unreasonably excessive amount of restitution that was ordered

where the record shows that t every other defendant was ordered to pay restitution in or about the amount that was set out in their respective plea agreements, and where the conclusion is ineluctable that the amount is unreasonable and is unsupported either by the record, or by Ms. Lovera's understanding of her written plea agreement.

This Court should exercise its supervisory jurisdiction over the United States Courts and correct this unfair restitution order.

Diana Lovera had CJA counsel in the district court, and the undersigned was appointed to represent her for purposes of appeal. Ms. Lovera's financial status has not improved during her term of incarceration that commenced. She is still proceeding through court-appointed counsel. Accordingly Diana Lovera respectfully requests that she be permitted to proceed with this petition in this Court *in forma pauperis* in light of her continuing indigence and her proceeding through CJA counsel on appeal.

Therefore, Petitioner respectfully prays that this Honorable Court will grant her leave to proceed on petition for writ of certiorari *in forma pauperis*, waive the filing fee, waive the requirement for 40 printed copies of the petition, and accept

eleven copies of the petition in typewritten form, that are, or soon will be, submitted with this motion.

Respectfully submitted,

/s/ *Sheryl J. Lowenthal*

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Dated: November 28, 2017