

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2018

JACOB CHARLES STEELE,

Petitioner,

v.

KIM HOLLAND, Warden,

Respondent.

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

Petitioner JACOB CHARLES STEELE, by his undersigned counsel, asks leave to file the attached Petition for Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit, without payment of costs and to proceed in forma pauperis pursuant to Rule 39 of the Rules of this Court.

Petitioner's affidavit in support of this motion is attached hereto. Petitioner did seek, but was denied, leave to proceed in forma pauperis in the United States District Court for the Northern District of California, and the Ninth Circuit denied as moot Petitioner's pending motion for leave to so proceed when the Court denied the certificate of appealability in connection with the Sixth and Fourteenth Amendment issues raised indirectly in the Petition for Writ of Certiorari. The undersigned counsel has been retained by petitioner's

family to represent him in these proceedings.

However, petitioner is personally indigent, is presently incarcerated, and has not the means to pay the filing fees and other costs associated with his Petition for writ of certiorari.

It is the Ninth Circuit's denial of petitioner's application for a certificate of appealability, following the district court's denial of petitioner's habeas corpus application challenging his state court conviction, subsequent to a trial at which he was barred from presenting a "complete defense" to a charge of murder, that is at issue in this matter.



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Counsel of Record
Counsel for Petitioner

No. _____

IN THE UNITED STATES SUPREME COURT

JACOB CHARLES STEELE,

Petitioner

v.

KIM HOLLAND, Warden,

Respondent.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

Affidavit in Support of Motion to Proceed In Forma Pauperis

I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury under United States laws that my answers on this form are true and correct. (28 U.S.C. § 1746; 18 U.S.C § 1621.)

The issues I raise on my petition to this Court are that the Ninth Circuit erroneously, improperly denied my application for a certificate of appealability following the district court’s denial of my petition for relief under 28 U.S.C. section 2254, which was based on the state courts’ denial of my Fifth, Sixth and Fourteenth Amendment rights to present a “complete defense” (*California v. Trombetta*, 467 U.S. 479, 485, 104 S.Ct. 2528, 81 L.Ed.2d 413 (1984)), the concomitant “...’right to an instruction that allowed the jury to consider the

defense...’ ” (*Bradley v. Duncan*, 315 F.3d 1091, 1098-1099 (9th Cir. 2002)), and the right, required by Due Process, to have the prosecution disprove, beyond a reasonable doubt, that my affirmative defenses did not apply. In sum, I was denied the right to present *my* defense to a murder charge by the trial court’s instruction to the jury, over my objection, that the right to self-defense does not apply where the person asserting the right provokes the confrontation with the intent to create an excuse to use force, when there was no evidence that I had done so.

Signed: 

Date: 3/1/2018

(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	\$ <u>0</u>	\$ <u>NA</u>	\$ <u>0</u>	\$ <u>NA</u>
Self-employment	\$ <u>0</u>	\$ <u>NA</u>	\$ <u>0</u>	\$ <u>NA</u>
Income from real property (such as rental income)	\$ <u>0</u>	\$ <u>NA</u>	\$ <u>0</u>	\$ <u>NA</u>
Interest and dividends	\$ <u>0</u>	\$ <u>NA</u>	\$ <u>0</u>	\$ <u>NA</u>
Gifts	\$ <u>33⁰⁰</u>	\$ <u>NA</u>	\$ <u>0</u>	\$ <u>NA</u>

Alimony	\$ <u>0</u>	\$ <u>NA</u>	\$ <u>0</u>	\$ <u>NA</u>
Child support	\$ <u>0</u>	\$ <u>NA</u>	\$ <u>0</u>	\$ <u>NA</u>
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>0</u>	\$ <u>NA</u>	\$ <u>0</u>	\$ <u>NA</u>
Disability (such as social security, insurance payments)	\$ <u>0</u>	\$ <u>NA</u>	\$ <u>0</u>	\$ <u>NA</u>
Unemployment payments	\$ <u>0</u>	\$ <u>NA</u>	\$ <u>0</u>	\$ <u>NA</u>
Public-assistance (such as welfare)	\$ <u>0</u>	\$ <u>NA</u>	\$ <u>0</u>	\$ <u>NA</u>
Other (specify): _____	\$ <u>0</u>	\$ <u>NA</u>	\$ <u>0</u>	\$ <u>NA</u>
Total monthly income:	\$ <u>33</u>	\$ <u>NA</u>	\$ <u>0</u>	\$ <u>NA</u>

2. List your employment history, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
<u>NA</u>			

3. List your spouse's employment history, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
<u>NA</u>			

4. How much cash do you and your spouse have? \$ 100.00

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial institution spouse has	Type of account	Amount you have	Amount your have
	NA	\$	\$
		\$	\$
HD SP	TRUST	\$ 100 US	\$ NA

If you are a prisoner, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

ATTACHED

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

Home (Value)

0 NA

Other real estate (Value)

0 NA

Motor vehicle #1 (Value)

NA

Make & year: _____

Model: _____

Registration #: _____

Motor vehicle #2 (Value)

NA

Make & year: _____

Model: _____

Registration #: _____

Other assets (Specify):

NA

(Value): _____

Other assets (Specify):

NA

(Value): _____

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

NA

7. State the persons who rely on you or your spouse for support.

NA

Name	Relationship	Age
_____	_____	_____
_____	_____	_____
_____	_____	_____

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, semiannually, or annually to show the monthly rate.

	You	Your Spouse
Rent or home-mortgage payment	\$ <u>NA</u>	\$ <u>NA</u>
(include lot rented for mobile home)		
Are real-estate taxes included? ☐ Yes ☐ No		
Is property insurance included? ☐ Yes ☐ No		

Utilities (electricity, heating fuel, water, sewer, and telephone)

\$ _____	\$ _____
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Home maintenance (repairs and upkeep)	\$ _____	\$ _____
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Food	\$ _____	\$ _____
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Clothing	\$ _____	\$ _____
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Laundry and dry-cleaning	\$ _____	\$ _____
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Medical and dental expenses	\$ _____	\$ _____
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Transportation (not including motor vehicle payments)	\$ _____	\$ _____
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Recreation, entertainment, newspapers, magazines, etc.	\$ _____	\$ _____
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Insurance (not deducted from wages or included in mortgage payments)	\$ _____
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Homeowner's or renter's	\$ _____	\$ _____
Life	\$ _____	\$ _____
Health	\$ _____	\$ _____
Motor Vehicle	\$ _____	\$ _____

Taxes (not deducted from wages or included in mortgage payments) (specify): _____	\$ _____	\$ _____
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Installment payments

Motor Vehicle

\$ _____ \$ _____

Credit card (name): _____

\$ _____ \$ _____

Department store (name): _____

\$ _____ \$ _____

Other: _____

\$ _____ \$ _____

Alimony, maintenance, and support paid to others

\$ _____ \$ _____

Regular expenses for operation of business,
profession, or farm (attach detailed statement)

\$ _____ \$ _____

Other (specify): _____

\$ _____ \$ _____

Total monthly expenses:

\$ NA \$ NA

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 X 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 X 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 X No

If yes, how much? \$ _____

If yes, state the person's name, address, and telephone number:

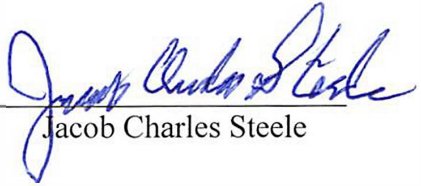
12. Provide any other information that will help explain why you cannot pay the docket fees for your appeal. MY PARENTS PAID MY ATTORNEY

13. State the address of your legal residence.

HIGH DEBT STATE PRISON, Box 3030 Susanville,
CA
96127

Your social-security number: xx-xx-9603

I declare under penalty of perjury that the foregoing is true and correct. Executed the
1st day of March, 2018 at Susanville, California.



Jacob Charles Steele

Case Number: 5:15-cv-0684-BLF

CERTIFICATION OF FUNDS

IN

PRISONER'S ACCOUNT

I certify that attached hereto is a true and correct copy of the prisoner's trust account statement showing transactions of Steele, Jacob AL3638 the last six months at Pelican Bay State Prison where he is confined.

I further certify that the average deposits each month to this prisoner's account for the most recent 6-month period were \$55.00 and the average balance in the prisoner's account each month for the most recent 6-month period was \$504.52 (20% = \$100.91)

Dated: 07/05/17

L. Field, SR AO

Authorized officer of the institution



THE WITHIN INSTRUMENT IS A CORRECT
COPY OF THE TRUST ACCOUNT MAINTAINED
BY THIS OFFICE
ATTEST: 7-5-17
CALIFORNIA DEPARTMENT OF CORRECTIONS
BY P. Root
TRUST OFFICE

Institution: PBSP

Inmate Statement Report

CDCR#	Inmate/Group Name	Institution	Unit	Cell/Bed
AL3638	STEELE, JACOB	PBSP	Z 001 1	154001

Current Available Balance: \$459.82

Transaction List

Transaction Date	Institution	Transaction Type	Source Doc#	Receipt#/Check#	Amount	Account Balance
01/01/2017	PBSP	BEGINNING BALANCE				\$660.54
01/05/2017	PBSP	REGULAR MAIL	1/4/17		(\$1.57)	\$658.97
01/17/2017	PBSP	SALES	55		(\$54.30)	\$604.67
02/07/2017	PBSP	MEDICAL COPAY	2/2/17D		(\$5.00)	\$599.67
02/15/2017	PBSP	SALES	26		(\$55.00)	\$544.67
03/15/2017	PBSP	MEDICAL COPAY	3/7/17D		(\$5.00)	\$539.67
03/20/2017	PBSP	SALES	14		(\$54.70)	\$484.97
04/01/2017	PBSP	JPAY	0000000070571008		\$200.00	\$684.97
04/19/2017	PBSP	SALES	38		(\$110.15)	\$574.82
04/27/2017	PBSP	LEGAL COPY	4/3/17		(\$1.50)	\$573.32
05/02/2017	PBSP	JPAY	0000000071671484		\$65.00	\$638.32
05/16/2017	PBSP	SALES	20		(\$160.35)	\$477.97
05/17/2017	PBSP	LEGAL COPY	5/7/17		(\$0.70)	\$477.27
06/07/2017	PBSP	JPAY	0000000072970832		\$65.00	\$542.27
06/12/2017	PBSP	SALES	48		(\$147.35)	\$394.92
06/23/2017	PBSP	COPY CHARGES	6/20/17		(\$0.10)	\$394.82

Encumbrance List

Encumbrance Type	Transaction Date	Amount
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No information was found for the given criteria.

Obligation List

Obligation Type	Court Case#	Original Owed Balance	Sum of Tx for Date Range for Oblg	Current Balance
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No information was found for the given criteria.

Restitution List

Restitution	Court Case#	Status	Original Owed Balance	Interest Accrued	Sum of Tx for Date Range for Oblg	Current Balance
RESTITUTION FINE	CR1001497	Fulfilled	\$240.00	\$0.00	\$0.00	\$0.00



THIS WITHIN DOCUMENT IS A CURRENT
COPY OF THE TRUST ACCOUNT MAINTAINED
BY THIS OFFICE
ATTBET: 7-5-17

CALIFORNIA DEPARTMENT OF CORRECTIONS
BY *P. Root*
TRUST OFFICE