

No. 25-6561

IN THE  
SUPREME COURT OF THE UNITED STATES

JOSHUA MAGEE,

PETITIONER

VS.

STATE OF MISSISSIPPI,

RESPONDENT(S)

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

The petitioner asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed in forma pauperis.

Please check the appropriate boxes:

☒ Petitioner has previously been granted leave to proceed in forma pauperis in the following court(s): Mississippi Supreme Court in previous cases.

☐ Petitioner has not previously been granted leave to proceed in forma pauperis in any other court. Not in this case.

☒ Petitioner's affidavit or declaration in support of this motion is attached hereto.

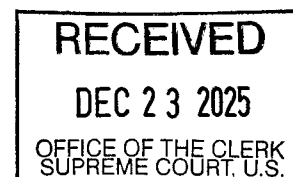
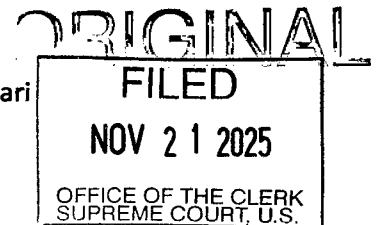
☐ Petitioner's affidavit or declaration is not attached because the court below appointed counsel in the current proceeding, and:

The appointment was made under the following provision of law:

, or

a copy of the order of appointment is appended.

Joshua Magee  
(Signature)



AFFIDAVIT OR DECLARATION  
IN SUPPORT OF MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

I, Joshua MaGee, am the petitioner in the above-entitled case. In support of my motion to proceed in forma pauperis, I state that because of my poverty I am unable to pay the costs of this case or to give security therefor; and I believe I am entitled to redress.

1. 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
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Employment \$\$\$\$

Self-employment \$\$\$\$

Income from real property \$\$\$\$

(such as rental income)

Interest and dividends \$\$\$\$

Gifts \$\$\$\$

Alimony \$\$\$\$

Child Support \$\$\$\$

Retirement (such as social \$\$\$\$

security, pensions,

annuities, insurance)

Disability (such as social \$\$\$\$

security, insurance payments)

*I am incarcerated with  
NO income*

Unemployment payments \$\$\$\$

Public-assistance \$\$\$\$

*I have no income*

(such as welfare)

Other (specify): \$\$\$\$

Total monthly income:

2. List your employment history for the past two years, most recent first. (Gross monthly pay

*No employment. Been in prison*

is before taxes or other deductions.)

Employer Address Dates of Gross monthly pay

Employment

\$

\$

\$

3. List your spouse's employment history for the past two years, most recent employer first.

(Gross monthly pay is before taxes or other deductions.)

Employer Address Dates of Gross monthly pay

Employment

\$

*Have no Spouse*

\$

\$

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

Below, state any money you or your spouse have in bank accounts or in any other financial institution. *No income*

Type of account (e.g., checking or savings) Amount you have Amount your spouse has

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

*No assets*

Home Other real estate

Value Value

Motor Vehicle #1 Motor Vehicle #2

Year, make & model Year, make & model

Value Value

Other assets

Description

Value

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or Amount owed to you Amount owed to your spouse  
your spouse money *N/A*

7. State the persons who rely on you or your spouse for support. For minor children, list initials *N/A*  
instead of names (e.g. "J.S." instead of "John Smith").

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, or annually to show the monthly rate.

You Your spouse

*in prison*

Rent or home-mortgage payment

*Incarcerated*

(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)

Home maintenance (repairs and upkeep)

Food

Clothing

Laundry and dry-cleaning

Medical and dental expenses

You Your spouse

Transportation (not including motor vehicle payments)

Recreation, entertainment, newspapers, magazines, etc.

Insurance (not deducted from wages or included in mortgage payments)

Homeowner's or renter's

Life

Health

Motor Vehicle

Other:

Taxes (not deducted from wages or included in mortgage payments)

(specify):

Installment payments

Motor Vehicle

*Incarcerate and have no money*

Credit card(s)

Department store(s)

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: \$\$

9. Do you expect any major changes to your monthly income or expenses or in your assets or

liabilities during the next 12 months?

*No Changes expected*

Yes 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

*No*

with this case, including the completion of this form? Yes 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

*No*

a typist) any money for services in connection with this case, including the completion of this

form?

Yes 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 costs of this case. *I am a state prisoner*

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: November 21, 2025

(Signature)

*Joshua Mayee*

Mississippi Code Annotated section 97-5-23(1) (Counts II and III). CP 11-12.

Following a jury trial, Rush was convicted of all three counts. CP 167. No place in the indictment did it name or identify either count as a crime of violence. The indictment filed against Rush failed to provide or include within it the information regarding the crime as being a crime of violence under Miss. Code Ann. Sec. 97-3-2 (2014). Rush would assert that the trial court was without jurisdiction to render any conviction and sentence upon either count where the indictment failed to provide sufficient notice of the law that such offenses were crimes of violence pursuant to the provisions of Miss. Code Ann. Sec. 97-3-2 (2014). The state has failed, miserably, to refute this issue.

Mississippi Code Annotated Section 97-3-2, codified in 2014, defines sexual battery as a violent crime for the first time. Prior to that statute's enactment, sexual battery under Miss. Code Ann. Sec. 97-3-95(1)(d) was not treated or considered automatically as a crime of violence. *Hughes v. State*, 892 So. 2d 203, 211 (¶19) (Miss. 2004) (holding that rape, other than statutory rape, i.e., nonforcible, nonviolent sex, is a crime of violence). Moreover, the enactment of section 97-3-2 allowed that Rush could be early releasable or parolable after serving 50% of such as opposed to the complete sentence being mandatory. Since the state failed to include Miss. Code Ann. Sec. 97-3-2 (2014), in Rush's indictment, the trial court never included such information in the sentencing order thereby depriving Rush of his right to be subjected to and applied under Miss. Code Ann. Sec. 97-3-2(2) (2014).