

No.

IN THE SUPREME COURT OF THE UNITED STATES

PIERRE LAMAAR MCEWEN, 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

Gary Lee Caldwell
*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

gcaldwel@pd15.org
lmattocks@pd15.org
appeals@pd15.org

COMES NOW the Petitioner, Pierre Lamaar McEwen, 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 conviction and 30 and 10 years sentences for possession of a firearm by a convicted felon and grand theft.

2. In trial court proceedings in this case, Petitioner was represented by the Public Defender, and he proceeded as an indigent during his state court trial court and appellate court proceedings.

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 9214.17, Florida Statutes (providing for appointment of counsel for indigents in criminal 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/ Gary Lee Caldwell
Gary Lee Caldwell, Esq.
Assistant Public Defender