

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 2025

SIXTO JORGE DÍAZ-COLÓN,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

HERE COMES NOW, Petitioner **Sixto Jorge Díaz-Colón**, by and through undersigned court-appointed counsel, and respectfully moves this Honorable Court, pursuant to Rule 39.1 of the Rules of the Supreme Court of the United States, for leave to proceed *in forma pauperis* in the prosecution of his accompanying Petition for a Writ of Certiorari. As grounds in support of this Motion, Petitioner respectfully states:

I. **INTRODUCTION**

This Motion is filed contemporaneously with the Petition for a Writ of Certiorari from the Opinion and Judgment of the United States Court of Appeals for the First Circuit in United States v. Díaz-Colón, 163 F.4th 1 (1st Cir. 2025), No. 23-1692. Petitioner is an indigent federal prisoner who has been continuously represented by court-appointed counsel since the inception of these proceedings, and has been afforded *in forma pauperis* status at every stage below. He seeks to maintain that status before this Court so that review may proceed without prepayment of fees or costs.

II. BACKGROUND

Undersigned counsel, Rafael F. Castro Lang, was appointed to represent Petitioner pursuant to the Criminal Justice Act of 1964, **18 U.S.C. § 3006A**, in the United States District Court for the District of Puerto Rico, and his appointment was continued on direct appeal by the United States Court of Appeals for the First Circuit.¹ Petitioner has been continuously represented by court-appointed counsel and has continuously proceeded *in forma pauperis* throughout all stages of this prosecution

— in the District of Puerto Rico, on direct appeal to the First Circuit, and on Petition for Panel Rehearing and Rehearing *En Banc*. No prior court has denied *in forma pauperis* status to Petitioner at any stage of this litigation.

Petitioner is presently unemployed, has no income, no investment income, and no liquid assets sufficient to satisfy this Court's filing fee or to bear the costs of

¹ Please find attached Court order to proceed in Forma Pauperis

preparing a booklet-format petition under Supreme Court Rule 33.1. See Sworn Affidavit.

III. LEGAL STANDARD

Rule 39.1 of the Rules of the Supreme Court of the United States provides that "[a] party seeking to proceed *in forma pauperis* shall file a motion for leave to do so, together with the party's notarized affidavit or declaration (in compliance with 28 U.S.C. § 1746) in the form prescribed by the Federal Rules of Appellate Procedure, Form 4." The same Rule, however, expressly provides that **"[i]f the United States district court or the United States court of appeals has appointed counsel under the Criminal Justice Act of 1964, 18 U.S.C. § 3006A, no affidavit or declaration is required, but the motion shall cite the statute under which counsel was appointed."** Sup. Ct. R. 39.1.

The Criminal Justice Act in turn provides, at **18 U.S.C. § 3006A(c)**, that representation under the Act "shall include ... ancillary matters appropriate to the proceedings," and that "[a] person for whom counsel is appointed shall be represented at every stage of the proceedings from his initial appearance ... through appeal, including ancillary matters appropriate to the proceedings." The statute authorizes representation through *certiorari* review in this Court. **18 U.S.C. § 3006A(d)(6)**; see also Plan of the United States Court of Appeals for the First Circuit Under the Criminal Justice Act and Related Statutes, § VI.

IV. ARGUMENT

Petitioner satisfies every requirement for leave to proceed *in forma pauperis* before this Court.

First, he is represented by counsel appointed under the Criminal Justice Act, 18 U.S.C. § 3006A, which appointment was originally made in the District Court for the District of Puerto Rico and continued by the First Circuit on direct appeal. That representation extends to the present *certiorari* stage as an "ancillary matter[] appropriate to the proceedings" under § 3006A(c). Under the express terms of Rule 39.1, no Form 4 affidavit or declaration is required where counsel has been appointed under the CJA; the citation to the statute under which counsel was appointed is sufficient.

Second, Petitioner has been continuously granted *in forma pauperis* status by both courts below. No court has at any time denied or withdrawn that status. The continuity of the IFP grant through every stage of the proceedings below independently supports the Motion under Rule 39.1's directive that the motion "shall state whether leave to proceed *in forma pauperis* was sought in any other court and, if so, whether leave was granted."

Third, the relief sought serves the underlying purpose of the *in forma pauperis* statute and Rule. As this Court long ago observed, *in forma pauperis* procedures exist "to assure equality of consideration for all litigants." Coppedge v. United States, 369 U.S. 438, 447 (1962); *see also* Adkins v. E.I. DuPont de Nemours & Co., 335 U.S. 331, 342–43 (1948). The denial of leave to proceed *in forma pauperis* would impose on this

indigent federal prisoner the prohibitive cost of preparing a booklet-format petition and accompanying appendix under Rule 33.1, and would defeat the purpose for which Congress enacted the Criminal Justice Act.

V. PRAYER FOR RELIEF

WHEREFORE, Petitioner Sixto Jorge Díaz-Colón respectfully prays that this Honorable Court enter an Order:

- (a) Granting leave to proceed *in forma pauperis* under Supreme Court Rule 39;
- (b) Permitting Petitioner to file his accompanying Petition for a Writ of Certiorari in the 8½ × 11-inch format authorized by Supreme Court Rule 33.2, without prepayment of the filing fee otherwise applicable under Rule 38; and
- (c) Granting such other and further relief as this Court may deem just and proper.

Respectfully submitted, on this the 14th day of July 2026

/s/RAFAEL F. CASTRO LANG
RAFAEL F. CASTRO LANG
Counsel of Record for Petitioner
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APPEAL

**United States District Court
District of Puerto Rico (San Juan)
CRIMINAL DOCKET FOR CASE #: 3:21-cr-00017-FAB All Defendants**

Case title: USA v. Diaz-Colon

Date Filed: 01/26/2021

Date Terminated: 08/04/2023

Assigned to: Judge Francisco A.
Besosa

Appeals court case number:
23-1692

Defendant (1)

Sixto Jorge Diaz-Colon
TERMINATED: 08/04/2023

represented by **Rafael F. Castro-Lang**
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Email: sulay_rios@fd.org
TERMINATED: 03/18/2021
ATTORNEY TO BE NOTICED
Designation: Federal Public Defender

Pending Counts

18:1951,2 ATTEMPTED
EXHORTION
(1)

18:1875(d),2 INTERSTATE
EXTORTION
(2)

18:1519 DESTRUCTION,
ALTERATION OR
FALSIFICATION OF RECORDS
IN A FEDERAL
INVESTIGATION
(3)

Disposition

IMPR: Fifty-one (51) months as to Counts One and Three, and twenty-four (24) months as to Count Two to be served concurrently with each other; SRT: Three (3) years as to Count One and Three and One (1) year as to Count Two, to be served concurrently with each other; SMA: \$300.00. No fine.

IMPR: Fifty-one (51) months as to Counts One and Three, and twenty-four (24) months as to Count Two to be served concurrently with each other; SRT: Three (3) years as to Count One and Three and One (1) year as to Count Two, to be served concurrently with each other; SMA: \$300.00. No fine.

IMPR: Fifty-one (51) months as to Counts One and Three, and twenty-four (24) months as to Count Two to be served concurrently with each other; SRT: Three (3) years as to Count One and Three and One (1) year as to Count Two, to be served concurrently with each other; SMA: \$300.00. No fine.

Highest Offense Level (Opening)

Felony

Terminated Counts

None

Disposition

**Highest Offense Level
(Terminated)**

None

Complaints

None

Disposition

Interested Party

US Probation Office

Interested Party

Oscar J. Serrano

represented by **Oscar J. Serrano-Negron**
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ATTORNEY TO BE NOTICED

Date Filed	#	Select all / clear	Docket Text
08/24/2023	470	ORDER re 468 Motion for Leave to Appeal In Forma Pauperis as to Sixto Jorge Diaz-Colon (1): GRANTED. Defendant Diaz-Colon may appeal in forma pauperis. Signed by Senior Judge Francisco A. Besosa on 8/24/2023. (ab) (mcm). (Entered: 08/24/2023)	
08/24/2023	472	Transmitted Supplemental Record on Appeal as to Sixto Jorge Diaz-Colon (1) re 463 Notice of Appeal – Final Judgment [Docket Entry 470] (mcm) (Entered: 08/24/2023)	

MIME-Version: 1.0
From: prd_docketing@prd.uscourts.gov
To: prd_docketing@prd.uscourts.gov
Bcc:
--Case Participants: Rafael F. Castro-Lang (rafacastrolang@gmail.com, rafacastrolanglaw@gmail.com), Myriam Y. Fernandez-Gonzalez (alejandro.aldebol@usdoj.gov, caseview.ecf@usdoj.gov, juan.alicea.otero@usdoj.gov, myriam.y.fernandez@usdoj.gov, victor.a.rodriquez@usdoj.gov), Michael Nicholas Lang (michael.lang@usdoj.gov, pin.ecf@crm.usdoj.gov), Oscar J. Serrano-Negron (ojserrano@hotmail.com), Oscar J. Serrano (ojserrano@hotmail.com), Senior Judge Francisco A. Besosa (prd_fab@prd.uscourts.gov)
--Non Case Participants: Appeals Clerk (idnar_diaz@prd.uscourts.gov, mildred_concepcion@prd.uscourts.gov, neil_almeida@prd.uscourts.gov)
--No Notice Sent:

Message-Id: <8168772@prd.uscourts.gov>
Subject: Activity in Case 3:21-cr-00017-FAB USA v. Diaz-Colon Order on Motion for Leave to Appeal In Forma Pauperis
Content-Type: text/html

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United States District Court

District of Puerto Rico

Notice of Electronic Filing

The following transaction was entered on 8/24/2023 at 12:56 PM AST and filed on 8/24/2023

Case Name: USA v. Diaz-Colon

Case Number: 3:21-cr-00017-FAB

Filer:

Document Number: 470(No document attached)

Docket Text:

ORDER re [468] Motion for Leave to Appeal In Forma Pauperis as to Sixto Jorge Diaz-Colon (1): GRANTED. Defendant Diaz-Colon may appeal in forma pauperis. Signed by Senior Judge Francisco A. Besosa on 8/24/2023. (ab)

3:21-cr-00017-FAB-1 Notice has been electronically mailed to:

Rafael F. Castro-Lang rafacastrolang@gmail.com, rafacastrolanglaw@gmail.com

Myriam Y. Fernandez-Gonzalez myriam.y.fernandez@usdoj.gov, CaseView.ECF@usdoj.gov, alejandro.aldebol@usdoj.gov, juan.alicea.otero@usdoj.gov, victor.a.rodriquez@usdoj.gov

Oscar J. Serrano-Negron ojserrano@hotmail.com

Michael Nicholas Lang michael.lang@usdoj.gov, pin.ecf@crm.usdoj.gov

3:21-cr-00017-FAB-1 Notice has been delivered by other means to:

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**
Transmittal of Abbreviated Supplemental Record to the Court of Appeals

DATE: August 24, 2023

DC #: 21-017 (FAB)

USCA #: 23-1692

CASE CAPTION: USA v. Diaz-Colón (1)

SPECIAL COMMENTS: Electronically filed documents

INDEX OF DOCUMENTS INCLUDED AS A SUPPLEMENTAL RECORD ON APPEAL:

DOCUMENTS:

Docket Entry 470

I HEREBY CERTIFY that the enclosed documents contained herein are the original pleadings as described above and constitute the record on appeal in the case.

ADA I. GARCIA-RIVERA, ESQ
Clerk of Court

S/ Mildred Concepción
Mildred Concepción
Deputy Clerk

s/c: CM/ECF Parties, Appeals Clerk