

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Martin Louis Ballard — PETITIONER
(Your Name)

VS.

United States of America — 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):

United States District Court for the District of
South Carolina, and Fourth Circuit Court of Appeals

Petitioner has not previously been granted leave to proceed *in forma pauperis* in any other court.

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

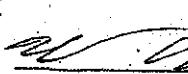
Petitioner's affidavit or declaration is not attached because the court below appointed counsel in the current proceeding, and:

The appointment was made under the following provision of law: _____

or

les

A copy of the order of appointment is appended.



(Signature)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

United States of America,)
v.) Criminal No. 2:12-232-SB
Martin Louis Ballard,) **ORDER**
Defendant.)

This matter is before the Court upon counsel for Defendant Martin Louis Ballard's motion to be relieved as counsel, or in the alternative, to be appointed as a CJA defense attorney pursuant to 18 U.S.C. § 3006A(b), which was filed on November 21, 2014. According to the motion, the Defendant, who initially retained counsel based on an indictment filed on March 14, 2012, is no longer financially able to pay for counsel's services. Counsel also points out that the circumstances and nature of this case have changed in light of a superseding indictment filed on September 12, 2012; a second superseding indictment filed on February 24, 2014; a third superseding indictment filed on March 11, 2014; and a fourth superseding indictment filed on November 12, 2014.

Pursuant to the statute relied on by counsel:

If at any stage of the proceedings, including an appeal, the United States magistrate judge or the court finds that the person is financially unable to pay counsel whom he had retained, it may appoint counsel as provided in subsection (b) and authorize payment as provided in subsection (d), as the interests of justice may dictate.

18 U.S.C. § 3006A(c). Although section 3006A(b) refers to the appointment of counsel from the Court's CJA panel, of which the Defendant's counsel is not a member, section 210.30.30 of the Guide to Judiciary Policy provides for *pro hac vice* appointments to the

CJA panel as follows:

- (a) If the district judge presiding over the case . . . determined that the appointment of an attorney, who is not a member of the CJA panel, is in the interest of justice, judicial economy or continuity of representation, or there is some other compelling circumstance warranting the attorney's appointment, the attorney may be admitted to the CJA panel *pro hac vice* and appointed to represent the CJA defendant.
- (b) Consideration for preserving the integrity of the panel selection process suggests that *pro hac vice* appointments should be made only in exceptional circumstances.
- (c) The attorney, who may or may not maintain an office in the district, should possess such qualities as would qualify the attorney for admission to the district's CJA panel in the ordinary course of panel selection.

Guide to Judiciary Policy, Vol. 7A, Ch. 2 § 210.30.30.

Here, after consideration, the Court finds that the particular circumstances of this case justify the relief requested by counsel. In other words, because the Court finds that the Defendant is no longer financially able to pay counsel, it is appropriate to appoint counsel pursuant to 18 U.S.C. § 3006A(c). Next, although counsel is not a member of the CJA panel, the Court finds that the interest of justice, judicial economy, and continuity of representation warrant the appointment of the Defendant's current counsel *pro hac vice* to the CJA panel. The Court notes that this case involves numerous Defendants and a great deal of discovery; Defendant Ballard faces very serious charges; the Defendant's current counsel has worked diligently on this case from its inception, and he possesses the qualities necessary for appointment; and, lastly, the appointment of new counsel would only serve to further delay the trial of this matter, which has been scheduled three times and which is expected to last approximately five weeks. In summary, the Court finds that

CJA panel as follows:

- (a) If the district judge presiding over the case . . . determined that the appointment of an attorney, who is not a member of the CJA panel, is in the interest of justice, judicial economy or continuity of representation, or there is some other compelling circumstance warranting the attorney's appointment, the attorney may be admitted to the CJA panel *pro hac vice* and appointed to represent the CJA defendant.
- (b) Consideration for preserving the integrity of the panel selection process suggests that *pro hac vice* appointments should be made only in exceptional circumstances.
- (c) The attorney, who may or may not maintain an office in the district, should possess such qualities as would qualify the attorney for admission to the district's CJA panel in the ordinary course of panel selection.

Guide to Judiciary Policy, Vol. 7A, Ch. 2 § 210.30.30.

Here, after consideration, the Court finds that the particular circumstances of this case justify the relief requested by counsel. In other words, because the Court finds that the Defendant is no longer financially able to pay counsel, it is appropriate to appoint counsel pursuant to 18 U.S.C. § 3006A(c). Next, although counsel is not a member of the CJA panel, the Court finds that the interest of justice, judicial economy, and continuity of representation warrant the appointment of the Defendant's current counsel *pro hac vice* to the CJA panel. The Court notes that this case involves numerous Defendants and a great deal of discovery; Defendant Ballard faces very serious charges; the Defendant's current counsel has worked diligently on this case from its inception, and he possesses the qualities necessary for appointment; and, lastly, the appointment of new counsel would only serve to further delay the trial of this matter, which has been scheduled three times and which is expected to last approximately five weeks. In summary, the Court finds that

FILED: October 26, 2016

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-4696
(2:12-cr-00232-MBS-14)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

MARTIN LOUIS BALLARD

Defendant - Appellant

ORDER

The court appoints Jerry Nicholas Theos to represent appellant. Counsel is referred to the CJA Payment Memorandum and the CJA eVoucher Page for information on appointment terms and procedures.

CJA authorization for preparation of transcript is obtained by submitting an AUTH-24 request in the district eVoucher system. New appellate counsel must contact district eVoucher staff for appointment to the underlying district court case in order to submit the AUTH-24 request for district judge approval and the CJA 24 voucher for transcript payment. Counsel must also submit a Transcript Order Form