

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

BRIAN DERONCELER — 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, Southern District Florida

Case No 15-20032-CR-GAYLES/TURNOFF

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

a copy of the order of appointment is appended.

On August 24, 2018, this motion and the affidavit were sent to Brian Deronceler for his signature. He is incarcerated at FCI Oakdale, Louisiana. _____

(Signature)

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

I, BRIAN DERONCELER, 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
Employment	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Self-employment	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Income from real property (such as rental income)	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Interest and dividends	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Gifts	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Alimony	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Child Support	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Disability (such as social security, insurance payments)	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Unemployment payments	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Public-assistance (such as welfare)	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Other (specify): _____	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Total monthly income:	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>

2. List your employment history for the past two years, most recent first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
<u>N/A Incarcerated</u>			\$ _____
			\$ _____
			\$ _____

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 Employment	Gross monthly pay
			\$ _____
			\$ _____
			\$ _____

4. How much cash do you and your spouse have? \$ 0
Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial institution	Type of account	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.

Home
Value _____

Other real estate
Value _____

Motor Vehicle #1
Year, make & model _____
Value _____

Motor Vehicle #2
Year, make & model _____
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 your spouse money	Amount owed to you	Amount owed to your spouse
_____	\$_____	\$_____
_____	\$_____	\$_____
_____	\$_____	\$_____

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

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
Rent or home-mortgage payment (include lot rented for mobile home)	\$ 0	\$ 0
Are real estate taxes included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Is property insurance included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ 0	\$ 0
Home maintenance (repairs and upkeep)	\$ 0	\$ 0
Food	\$ 0	\$ 0
Clothing	\$ 0	\$ 0
Laundry and dry-cleaning	\$ 0	\$ 0
Medical and dental expenses	\$ 0	\$ 0

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ <u>0</u>	\$ <u>0</u>
Recreation, entertainment, newspapers, magazines, etc.	\$ <u>0</u>	\$ <u>0</u>
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ <u>0</u>	\$ <u>0</u>
Life	\$ <u>0</u>	\$ <u>0</u>
Health	\$ <u>0</u>	\$ <u>0</u>
Motor Vehicle	\$ <u>0</u>	\$ <u>0</u>
Other: _____	\$ <u>0</u>	\$ <u>0</u>
Taxes (not deducted from wages or included in mortgage payments)		
(specify): _____	\$ <u>0</u>	\$ <u>0</u>
Installment payments		
Motor Vehicle	\$ <u>0</u>	\$ <u>0</u>
Credit card(s)	\$ <u>0</u>	\$ <u>0</u>
Department store(s)	\$ <u>0</u>	\$ <u>0</u>
Other: _____	\$ <u>0</u>	\$ <u>0</u>
Alimony, maintenance, and support paid to others	\$ <u>0</u>	\$ <u>0</u>
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ <u>0</u>	\$ <u>0</u>
Other (specify): _____	\$ <u>0</u>	\$ <u>0</u>
Total monthly expenses:	\$ <u>0</u>	\$ <u>0</u>

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 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 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 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 have been incarcerated for three years and seven months. No money.

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

Executed on: _____, 2018

(Signature)
Brian Deronceler

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NOS. 15-20032-CR-GAYLES/TURNOFF

UNITED STATES OF AMERICA,

Plaintiff,

v.

BRIAN DERONCELER,

Defendant.

**ORDER FOR COMPETENCY EVALUATION OF DEFENDANT DERONCELER,
SETTING COMPETENCY HEARING BEFORE JUDGE GAYLES
AND APPOINTING STANDBY COUNSEL**

The Defendant, Brian Deronceler, who is in the custody of the Bureau of Prisons, appeared before this Court on February 2, 2015 for a pretrial detention hearing and a report regarding counsel. At that time, the Defendant insisted that he represent himself in these proceedings and not be represented by counsel. He said the same earlier, at his initial appearance. [DE 14].

I attempted to inform the Defendant of his rights and to otherwise discuss with him the nature of these proceedings, in an effort to determine whether he was capable of making a knowing, informed and voluntary waiver of his right to representation by counsel, consistent with the requirements of *Faretta v. California*, 422 U.S. 806 (1975). *See also U.S. Smith*, 417 Fed. Appx. 911, 914 (11th Cir. 2011); *U.S. v. Evans*, 478 F.3d 1332, 1340 (11th Cir. 2007). The Defendant's replies to my inquiries were mostly

non-responsive and often nonsensical.

For example, the Defendant said that he did not know his age or education. He claimed he was not a United States citizen, stating “I am a corporation;” he also said that he was “living flesh,” that “blood flowed through my veins” and he was “the living entity.” The Defendant repeatedly announced that he would conditionally accept “all offers of dismissal.” The Defendant continued with this declaration despite my explaining, and the government confirming, that the government would not offer to dismiss the charges against him. The Defendant also maintained that he did not understand my statements, including those about his rights.

It is not clear to me whether the Defendant’s behavior was motivated by his deliberate desire to be uncooperative and to disrupt these proceedings, or if he perhaps is suffering from some impairment of cognition or mental illness. His behavior has given this Court reasonable cause to believe that he “may presently be suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense.” 18 U.S.C. § 4241(a). Under these circumstances it is not possible for the Court to determine whether the Defendant is indigent; nor is it possible to proceed with a pretrial detention hearing or other proceedings regarding the Defendant.

Without objection from the United States, and over the object of the Defendant, I enter the following ORDERS:

1. The Court appoints Terence Michael Lenamon, Esq. as standby counsel for

the Defendant.

2. Pursuant to 18 U.S.C. §4241(a) and 4247(b), the Court orders that the Bureau of Prisons to designate a licensed or certified psychiatrist and/or psychologist to conduct an evaluation of defendant's competency to stand trial, and to file with the Court a report of that examination of Defendant, with copies provided to the Defendant, Mr. Lenamon and counsel for the Government. That report shall be filed and served **no later than February 27, 2015**. Consistent with 18 U.S.C. section 4247(c) this report shall include:

- (a) The Defendant's history and present symptoms;
- (b) A description of the psychiatrist, psychological and medical tests used and the results;
- (c) The psychologist's or psychiatrist's findings; and,
- (d) The psychologist's or psychiatrist's opinion as to diagnosis, prognosis, and whether the Defendant is suffering from a mental disease or defect that renders him mentally incompetent such that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense.

The cost of the evaluation and report shall be paid by the United States.

3. Upon consultation with the chambers of the Honorable Darin P. Gayles, it is further ORDERED that the parties, counsel and the psychiatrist and or psychologist who evaluates the Defendant shall appear before Judge Gayles **on March 6, 2015, at 9:30 a.m.** **at the Wilkie D. Ferguson United States Courthouse, 400 North Miami Avenue,**

Courtroom 11-1, Miami, Florida, 33128, at which time Judge Gayles will hold a hearing to determine the mental competency of the Defendant.

DONE AND ORDERED in chambers in Miami, Florida this 4th day of February, 2015.



CHRIS MCALILEY
UNITED STATES MAGISTRATE JUDGE

cc: The Honorable Darrin P. Gayles

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