

No. \_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES

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Kenneth Ray Borders, *Petitioner*,

v.

United States of America, *Respondent*.

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On Petition for a Writ of Certiorari to the  
United States Court of Appeals  
for the Eighth Circuit

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**MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS***

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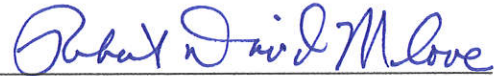
The Petitioner, Kenneth Ray Borders, asks leave to file the enclosed Petition for a Writ of Certiorari to the Supreme Court of the United States without prepayment of costs and to proceed *In Forma Pauperis* in accordance with Supreme Court Rule 39. The Petitioner is a prisoner in the Federal Bureau of Prisons and has previously been found indigent by the United States District Court of Missouri in case no. 12-00386-01-CR-W-DGK and the Eighth Circuit Court of Appeals in case no. 14-3828, and counsel was appointed pursuant to the Criminal Justice Act. Petitioner also sought leave to proceed *In Forma Pauperis* with respect to the Application for

Certificate of Appealability to the Eighth Circuit Court of Appeals in case no. 18-1451.

However, that request was denied as moot. *See attached.*

WHEREFORE, Petitioner, Kenneth Ray Borders, prays for leave to proceed *In Forma Pauperis.*

Respectfully submitted,



ROBERT DAVID MALOVE  
The Law Office of  
Robert David Malove, P.A.  
200 South Andrews Ave., Suite 100  
Fort Lauderdale, FL 33301  
(954) 861-0384  
*Counsel of Record*  
*Attorney for Petitioner*

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI

UNITED STATES OF AMERICA

Plaintiff,

-vs-

Case No. 12-00386-01-CR-W-DGK

KENNETH RAY BORDERS,

Defendant.

---

ORDER APPOINTING  
CRIMINAL JUSTICE ACT COUNSEL

The above-named defendant, having appeared before the United States Magistrate Judge on December 17, 2012 and having testified under oath and made an affidavit as to his/her financial ability to employ counsel, the United States Magistrate Judge finds that the defendant is financially unable to obtain counsel and defendant not having waived counsel, it is

ORDERED that Alex McCauley, 110 South Cherry Street, Suite 103, Olathe, Kansas, 66061, telephone number 913-390-5023, be, and is hereby, appointed to represent the defendant before the United States Magistrate Judge and in all proceedings thereafter unless and until relieved by order of the United States District Court for the Western District of Missouri.

/s/ John T. Maughmer

JOHN T. MAUGHMER

UNITED STATES MAGISTRATE JUDGE

Kansas City, Missouri  
December 17, 2012



## CJA 20 APPOINTMENT OF AND AUTHORITY TO PAY COURT APPOINTED COUNSEL

1. CIR./DIST./DIV. CODE 08C		2. PERSON REPRESENTED BORDERS, KENNETH RAY		VOUCHER NUMBER 14382802	
3. MAG. DKT./DEF. NUMBER		4. DIST. DKT./DEF. NUMBER 4:12-000386-001	5. APPEALS DKT./DEF. NUMBER X:14-003828-001		6. OTHER DKT. NUMBER
7. IN CASE/MATTER OF (Case Name) US v. BORDERS		8. PAYMENT CATEGORY Other		9. TYPE PERSON REPRESENTED Appellant	
10. REPRESENTATION TYPE (See Instructions) Appeal of Trial Disposition					
11. OFFENSE(S) CHARGED (Cite U.S. Code, Title & Section) If more than one offense, list (up to five) major offenses charged, according to severity of offense.					
12. ATTORNEY'S NAME (First Name, M.I., Last Name, including any suffix) AND MAILING ADDRESS GILLETTE, CLAYTON E. Gillette Law Office, LLC Suite A 600 East 8th Street Kansas City MO 64106  Telephone Number:			13. COURT ORDER <input checked="" type="checkbox"/> O Appointing Counsel <input type="checkbox"/> C Co-Counsel <input type="checkbox"/> F Subs For Federal Defender <input type="checkbox"/> R Subs For Retained Attorney <input type="checkbox"/> P Subs For Panel Attorney <input type="checkbox"/> Y Standby Counsel Prior Attorney's Name: _____ Appointment Date: _____ <input type="checkbox"/> Because the above-named person represented has testified under oath or has otherwise satisfied this court that he or she (1) is financially unable to employ counsel and (2) does not wish to waive counsel, and because the interests of justice so require, the attorney whose name appears in Item 12 is appointed to represent this person in this case, or <input type="checkbox"/> Other (See Instructions) <u>15</u> Signature of Presiding Judicial Officer or By Order of the Court <u>01/08/2015</u> <u>01/05/2015</u> Date of Order      Nunc Pro Tunc Date Repayment or partial repayment ordered from the person represented for this service at time of appointment. <input type="checkbox"/> YES <input type="checkbox"/> NO		
14. NAME AND MAILING ADDRESS OF LAW FIRM (only provide per instructions) GILLETTE LAW OFFICE, LLC Suite A 600 East 8th Street Kansas City MO 64106					

CATEGORIES (Attach itemization of services with dates)	HOURS CLAIMED	TOTAL AMOUNT CLAIMED	MATH/TECH ADJUSTED HOURS	MATH/TECH ADJUSTED AMOUNT	ADDITIONAL REVIEW
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17. Travel Expenses (lodging, parking, meals, mileage, etc.)					
18. Other Expenses (other than expert, transcripts, etc.)					

19. CERTIFICATION OF ATTORNEY/PAYEE FOR THE PERIOD OF SERVICE FROM _____ TO _____		20. APPOINTMENT TERMINATION DATE IF OTHER THAN CASE COMPLETION	21. CASE DISPOSITION
22. CLAIM STATUS <input type="checkbox"/> Final Payment <input type="checkbox"/> Interim Payment Number _____ <input type="checkbox"/> Supplemental Payment Have you previously applied to the court for compensation and/or reimbursement for this case? <input type="checkbox"/> YES <input type="checkbox"/> NO      If yes, were you paid? <input type="checkbox"/> YES <input type="checkbox"/> NO Other than from the court, have you, or to your knowledge has anyone else, received payment (compensation or anything of value) from any other source in connection with this representation? <input type="checkbox"/> YES <input type="checkbox"/> NO      If yes, give details on additional sheets. I swear or affirm the truth or correctness of the above statements. Signature of Attorney: _____      Date: _____			

23. IN COURT COMP.	24. OUT OF COURT COMP.	25. TRAVEL EXPENSES	26. OTHER EXPENSES	27. TOTAL AMT. APPR / CERT
28. SIGNATURE OF THE PRESIDING JUDICIAL OFFICER			DATE	28a. JUDGE / MAG. JUDGE CODE
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**Motion and Affidavit for Permission  
to Appeal In Forma Pauperis**

Kenneth R. Borders  
v.  
USA

18-1451

Appeal No. \_\_\_\_\_  
District Court or Agency No. \_\_\_\_\_

**Affidavit in Support of Motion**

I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury under United States laws that my answers on this form are true and correct. (28 U.S.C. § 1746; 18 U.S.C. § 1621.)

Signed: \_\_\_\_\_

**Instructions**

Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write in that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.

Date: \_\_\_\_\_

**My issues on appeal are:**

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				
Self-employment				
Income from real property (such as rental income)				
Interest and dividends				
Gifts				
Alimony				



Child support

Retirement (such as social security, annuities, insurance)

Disability (such as social security, insurance payments)

Unemployment payments

Public-assistance (such as welfare)

Other (specify): \_\_\_\_\_

Total monthly income

2. List your employment history, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
N/A			

3. List your spouse's employment history, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
N/A			

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.

Financial institution	Type of account	Amount you have	Amount your spouse has
N/A	N/A		

If you are a prisoner, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

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	(Value)
[Redacted]				Make & year:	[Redacted]
				Model:	[Redacted]
				Registration #	[Redacted]
Motor vehicle #2	(Value)	Other assets	(Value)	Other assets	(value)

Make & year: [Redacted]

Model: [Redacted]

Registration #: [Redacted]

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
---------------------------------------	--------------------	----------------------------

[Redacted]

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

Name	Relationship	Age
------	--------------	-----

[Redacted]

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, semiannually, or annually to show the monthly rate.

	You	Your Spouse
Rent or home-mortgage payment (include lot rented for mobile home)	[Redacted]	[Redacted]
Are real-estate taxes included? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Is property insurance included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	[Redacted]	[Redacted]
Home maintenance (repairs and upkeep)	[Redacted]	[Redacted]
Food	[Redacted]	[Redacted]
Clothing	[Redacted]	[Redacted]



Laundry and dry-cleaning

Medical and dental expenses

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 


Credit card (name): 

Department Store (name): \_\_\_\_\_


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? 

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? [REDACTED]

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?

[REDACTED]

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 docket fees for your appeal.

13. State the address of your legal residence.

MCFP Springfield, 1900 W. Sunshine  
St., Springfield, MO 65807

Your daytime phone number: ( ) \_\_\_\_\_

Your age [REDACTED] Your years of schooling: \_\_\_\_\_

Your social-security number [REDACTED]

**UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT**

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No: 18-1451

---

Kenneth Ray Borders

Movant - Appellant

v.

United States of America

Respondent - Appellee

---

Appeal from U.S. District Court for the Western District of Missouri - Kansas City  
(4:17-cv-00589-DGK)

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**JUDGMENT**

Before WOLLMAN, COLLOTON and GRUENDER, Circuit Judges.

This appeal comes before the court on appellant's application for a certificate of appealability. The court has carefully reviewed the original file of the district court, and the application for a certificate of appealability is denied. The motion for leave to proceed in forma pauperis is denied as moot. The appeal is dismissed.

May 31, 2018

Order Entered at the Direction of the Court:  
Clerk, U.S. Court of Appeals, Eighth Circuit.

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/s/ Michael E. Gans