

No.

IN THE

SUPREME COURT OF THE UNITED STATES

DAVID ACKELL,

PETITIONER

V.

UNITED STATES OF AMERICA

RESPONDENT

PETITIONER DAVID ACKELL'S MOTION FOR LEAVE TO
PROCEED *IN FORMA PAUPERIS*

William E. Christie
(*Counsel of Record*)
Shaheen & Gordon, P.A.
107 Storrs Street
P.O. Box 2703
Concord, NH 03301
(603) 225-7262

Counsel for Petitioner

NOW COMES the Petitioner, David Ackell, moving to proceed *In Forma Pauperis*, and in support thereof states as follows:

1. Petitioner David Ackell, pursuant to Supreme Court Rule 39, seeks leave to proceed *in forma pauperis*.

2. This matter arises out of the criminal prosecution of David Ackell in United States v. David Ackell, 15-CR-00123-JL filed in the United States District Court for the District of New Hampshire. In the district court matter, Petitioner filed for leave to appeal *in forma pauperis*. The district court granted Petitioner's request to proceed *in forma pauperis* on appeal. Additionally, undersigned counsel was appointed under the Criminal Justice Act of 1964, 18 U.S.C. § 3006, for the limited purposes of preparing the Notice of Appeal and preparing and filing for the preparation of the transcripts for the appeal. *See* Exhibit A.

3. Undersigned counsel was also appointed and represented the Petitioner at the First Circuit pursuant to the Criminal Justice Act, 18 U.S.C. § 3006A. *See* Exhibit B.

4. As Petitioner has had the benefit of appointed counsel in the district court matter and at the First Circuit Court of Appeals, he moves to proceed *in forma pauperis* at the United States Supreme Court.

5. As Petitioner seeks leave to proceed *in forma pauperis*, Petitioner seeks waiver of the \$300.00 docket fee pursuant to Supreme Court Rules 38 and 39.

WHEREFORE, Petitioner respectfully requests that this Honorable Court:

- a. Grant the within Motion thereby allowing Petitioner to proceed *in forma pauperis* and waiving the \$300.00 docket fee; and
- b. Grant such further relief as this Court deems necessary and just.

Respectfully submitted,

David Ackell
By His Attorneys:
SHAHEEN & GORDON, P.A.

Dated: January 22, 2019

/s/ William E. Christie
William E. Christie
(*Counsel of Record*)
107 Storrs Street
P.O. Box 2703
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(603) 225-7262
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Counsel for Petitioner

EXHIBIT A

Jessica Bellemore

From: ecf_bounce@nhd.uscourts.gov
Sent: Friday, July 21, 2017 9:11 AM
To: nef@nhd.uscourts.gov
Subject: Activity in Case 1:15-cr-00123-JL USA v. Ackell Order on Motion for Leave to Appeal In Forma Pauperis

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS***** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

U.S. District Court

District of New Hampshire

Notice of Electronic Filing

The following transaction was entered on 7/21/2017 at 9:10 AM EDT and filed on 7/20/2017

Case Name: USA v. Ackell
Case Number: [1:15-cr-00123-JL](#)
Filer:
Document Number: No document attached

Docket Text:

ENDORSED ORDER granting [111] Motion for Leave to Appeal In Forma Pauperis as to David Ackell (1). Text of Order: Appellant's request to proceed in forma pauperis is granted. Defendant has moved for leave to appeal in forma pauperis ("IFP") and for his retained counsel to be appointed to represent him under 18 U.S.C. § 3006A ("CJA") (Doc. No. 113). The request for leave to appeal IFP is granted. The request for a CJA appointment is granted, in part, to the extent that the court appoints Attorney William Christie to represent defendant in preparing and filing a notice of appeal, and in ordering transcripts. The CJA appointment ends upon the filing of the notice of appeal and submission of the transcript order. Counsel's request for compensation under the CJA for work on the notice of appeal and transcript order shall be submitted to this court. Defendant's counsel may request a CJA appointment thereafter in the First Circuit, in accordance with that court's rules and procedures. So Ordered by Magistrate Judge Andrea K. Johnstone. (cmp)

1:15-cr-00123-JL-1 Notice has been electronically mailed to:

Bjorn R. Lange (Terminated) bjorn_lange@fd.org, Brandy_Fantasia@fd.org, Elizabeth_Sousa@fd.org

Donald A. Feith donald.feith@usdoj.gov, CaseView.ECF@usdoj.gov, christine.true@usdoj.gov,
kristina.mcnamara@usdoj.gov, Rob.Rabuck@usdoj.gov, USANH.ECF Criminal@usdoj.gov, USANH.ECF Docket@usdoj.gov

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Suzanne Amy Spencer saspencer@shaheengordon.com, jbellemore@shaheengordon.com, rburke@shaheengordon.com

William E. Christie wchristie@shaheengordon.com, concord@shaheengordon.com, jbellemore@shaheengordon.com, rburke@shaheengordon.com

1:15-cr-00123-JL-1 Notice, to the extent appropriate, must be delivered conventionally to:

EXHIBIT B

United States Court of Appeals For the First Circuit

No. 17-1784

UNITED STATES,

Appellee,

v.

DAVID ACKELL,

Defendant - Appellant.

ORDER OF COURT

Entered: December 5, 2017
Pursuant to 1st Cir. R. 27.0(d)

Appellant's request for appointment of counsel on appeal is granted. Attorney William E. Christie is appointed as counsel for defendant-appellant under the guidelines of the Criminal Justice Act, 18 U.S.C. § 3006A nunc pro tunc to July 24, 2017.

By the Court:

/s/ Margaret Carter, Clerk

cc:

William E. Christie
Suzanne Amy Spencer
Robert Michael Kinsella
Donald A. Feith
Seth R. Aframe

OFFICE OF THE CLERK
UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

MARGARET CARTER
CLERK

JOHN JOSEPH MOAKLEY
UNITED STATES COURTHOUSE
1 COURTHOUSE WAY, SUITE 2500
BOSTON, MA 02210
(617) 748-9057

December 5, 2017

William E. Christie
Shaheen & Gordon PA
PO Box 2703
107 Storrs St
Concord, NH 03302-2703

Re: US v. Ackell
No.: 17-1784

Dear Counsel:

Thank you for accepting an appointment under the Criminal Justice Act. Your appearance has been entered on behalf of the above named appellant. If you have not applied for a separate PACER account that provides fee exempt access for CJA work related to this appointment, you should contact the PACER Service Center at 800-676-6856 to acquire one.

The First Circuit Court of Appeals uses an electronic submission and payment system called eVoucher to process vouchers under the Criminal Justice Act (CJA). Please review the [5/25/16 Notice Re: Implementation of eVoucher](#) for further details. Once you have finished the registration process for eVoucher, you will be able to access the CJA 20 and CJA 21 vouchers (or CJA 30 and CJA 31 vouchers) created for this appointment. CJA 24 vouchers will not be processed through eVoucher. Instead, you will continue to file CJA 24 vouchers electronically with a Transcript Report/Order Form through ECF.

As part of your appointment, you were ordered to determine whether all of the transcripts necessary for this appeal have been ordered. Please review both the district court and court of appeals dockets to see what transcripts have already been ordered. The district court docket should also list all of the transcripts that have been produced to date. If further proceedings need to be transcribed or produced, you must file a separate [Transcript Report/Order Form](#) and CJA 24 Voucher for each court reporter. If you determine that all of the transcripts necessary for the appeal have been filed, you must indicate as much in the Transcript Report section of the Transcript Order Form and file it with the court.

The court's website at www.ca1.uscourts.gov contains many important forms and instructions as well as links to the [Federal Rules of Appellate Procedure and First Circuit Local Rules](#) and the [CJA Reference Manual](#). Please visit the website and review the [Criminal Justice](#)

[Act tab](#) for CJA Voucher instructions, important announcements and links to helpful sites. Please also review the [Notice to Court-Appointed Counsel Regarding Requirements for Briefs](#).

A CJA 20 voucher must be submitted no later than 45 days after the final disposition of the case (as defined in the attached Notice Regarding Completion of Representation) and must include a supplemental diary that reflects the hours worked on each date, the time spent both in-court and out-of-court, and a description of the services provided along with a listing of expenses incurred. Please refer to the [CJA Form 20 Instructions](#) and [Local Rule 46.5](#), which is this court's plan for implementing the Criminal Justice Act.

Your service as an appointed attorney under the Criminal Justice Act is appreciated.

Sincerely,

/s/ Margaret Carter, Clerk

Enclosures

Case Manager: Garineh Ashjian - (617) 748-4664

United States Court of Appeals For the First Circuit

NOTICE TO CJA COUNSEL REGARDING COMPLETION OF REPRESENTATION AND SUBMISSION OF A FINAL VOUCHER

Court-appointed counsel's attention is directed to 1st Cir. R. 46.5(c). If an appeal is denied, counsel must:

- Inform the client of the loss on appeal, the right to petition for a writ of certiorari, and the time period for doing so.
- Prepare and file a petition for a writ of certiorari if there are reasonable grounds to do so and the client requests it.
- If counsel determines that there are no reasonable grounds and declines to file a petition for a writ of certiorari requested by the client, counsel must so inform the Court and request leave to withdraw from the representation by written motion stating that counsel has reviewed the matter and determined that the petition would be frivolous, accompanied by counsel's certification of the date when a copy of the motion was furnished to the client.
- If the client does not wish to apply for certiorari or does not respond to the notification, counsel shall so inform the court by letter.

For more detailed information, counsel should consult 1st Cir. R. 46.5(c). Under all circumstances, counsel should either file a petition for a writ of certiorari or move to withdraw following the procedures set forth in Rule 46.5(c). The 45-day time period for filing a final CJA voucher runs from the filing of the petition or the order allowing the motion to withdraw.

In the event counsel does move to withdraw rather than file a petition for a writ of certiorari, counsel is advised to do so promptly and well in advance of the deadline for filing a petition. The court makes its own determination as to frivolousness before allowing a motion to withdraw. Occasionally, the court denies a motion to withdraw and requires counsel to file a petition.