

CAPITAL CASE
No. 19-239

IN THE SUPREME COURT OF THE UNITED STATES

LARRY BENZON, WARDEN, UTAH STATE PRISON,
Petitioner,

vs.

TROY MICHAEL KELL,
Respondent,

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

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

Pursuant to Rule 39, Rules of the Supreme Court, Petitioner Troy Michael Kell hereby moves for leave to proceed *in forma pauperis* in the above-captioned action on the ground that he lacks sufficient funds to pay for fees and expenses. Mr. Kell is incarcerated at the Utah State Prison, Uinta 1 Unit, Draper, Utah. By order of the United States District Court for the District of Utah (Dist. Ct. Doc. No. 33 – Sealed), and subsequent order of the United State Court of Appeals for the Tenth Circuit dated January 4, 2019 (Doc. No. 01019925045), attached as Appendix A, Mr. Kell was previously granted leave to proceed *in forma pauperis* and was appointed counsel pursuant to 18 U.S.C. §§ 3006A(c) and 3599(a)(2). Accordingly, Troy Michael Kell asks that he be permitted to proceed *in forma pauperis* in this Court.

Respectfully submitted:

October 23, 2019.

JON M. SANDS
Federal Public Defender
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/s/Dale A. Baich _____

Dale A. Baich

Counsel for Respondent Troy Michael Kell

**Counsel of Record*

Benzon v. Kell

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

Order, United States Court of Appeals for the Tenth Circuit,
January 4, 2019 [Doc. No. 01019925045] App. A

Appendix A
to Motion for Leave to Proceed *In Forma Pauperis*

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

January 4, 2018

Elisabeth A. Shumaker
Clerk of Court

TROY MICHAEL KELL,

Petitioner - Appellee,

v.

LARRY BENZON, Warden Utah State
Prison,

Respondent - Appellant.

No. 17-4191
(D.C. No. 2:07-CV-00359-CW)
(D. Utah)

ORDER

Before **MURPHY**, Circuit Judge.

This matter is before the court on the *Motion to Continue Appointment* filed by counsel for Appellee. Upon consideration, the motion is granted. Pursuant to 18 U.S.C. §§ 3006A(c) and 3599(a)(2), the Office of the Federal Public Defender for the District of Arizona is appointed as counsel of record for Appellee, Troy Michael Kell. This appointment is effective *nunc pro tunc* to the date the notice of appeal was filed.

Entered for the Court,

ELISABETH A. SHUMAKER, Clerk



by: Chris Wolpert
Chief Deputy Clerk