

No. 19-\_\_\_\_\_

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IN THE  
SUPREME COURT OF THE UNITED STATES

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ALAUNA GAYE MORRIS,

*Petitioner,*

v.

UNITED STATES OF AMERICA,

*Respondent.*

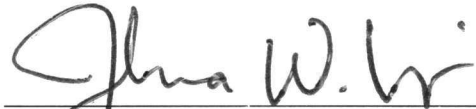
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MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

Petitioner, pursuant to Supreme Court Rule 39, moves for leave to file the attached Petition for a Writ of Certiorari to the United States Supreme Court without payment of fees, and to proceed *in forma pauperis*.

Petitioner was previously granted leave to proceed *in forma pauperis* in the United States District Court for the Northern District of Iowa Western Division and was appointed counsel in the United States Court of Appeals for the Eighth Circuit under the Criminal Justice Act of 1964. Copies of the Orders appointing undersigned counsel are attached hereto.

Respectfully, Submitted,

A handwritten signature in black ink, reading "Joshua W. Weir". The signature is fluid and cursive, with a horizontal line drawn underneath it.

JOSHUA W. WEIR

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*Counsel for Petitioner*

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

No: 18-1810

United States of America

Appellee

v.

Alauna Gaye Morris

Appellant

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Appeal from U.S. District Court for the Northern District of Iowa - Sioux City  
(5:16-cr-04096-LTS-1)

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**ORDER**

Attorney, Joshua W. Weir is hereby appointed to represent appellant in this appeal under the Criminal Justice Act. Information regarding the CJA appointment and vouchering process in eVoucher will be emailed to counsel shortly.

April 20, 2018

Order Entered under Rule 27A(a):  
Clerk, U.S. Court of Appeals, Eighth Circuit.

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/s/ Michael E. Gans

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ALAUNA GAYE MORRIS,

Defendant.

No. 16-CR-4096-LTS

ORDER

This matter is before the court on Defendant Alauna Gaye Morris' motion for appointment of counsel under the Criminal Justice Act (CJA). Doc. 68. Defendant submitted a CJA 23 financial affidavit with her Notice of Appeal (Doc. 65). Doc. 65-1. Defendant's counsel, Joshua Weir, states in the motion that the undersigned previously noted during a prior hearing (Doc. 60) that Defendant may be eligible for CJA appointed counsel given her current financial status.<sup>1</sup>

Defendant's sentencing hearing was held on April 3, 2018 (Doc. 62) and she filed a Notice of Appeal on April 13, 2018 (Doc. 65). In response to the notice of appeal, the Eighth Circuit Court of Appeals issued an appellate case number (Appeal No. 18-1810) and set forth appeal requirements. Doc. 67. The appeal requirements state, in part:

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<sup>1</sup>On January 31, 2018, this matter came before Chief United States District Judge Leonard T. Strand for sentencing. Docs. 57-58. At that hearing, retained counsel, Joshua Weir, withdrew as counsel of record as requested by Defendant. *Id.* Defendant indicated she would be seeking new counsel, and the sentencing hearing was continued to April 3, 2018. Doc. 58. On March 26, 2018, the undersigned held a status conference to confer with Defendant about representation by counsel as no attorney had entered an appearance. Defendant indicated she had re-hired Mr. Weir, and the Court recessed to contact Mr. Weir who confirmed he had been re-hired by Defendant. Doc. 60. Also during that hearing, Defendant stated she has not worked in nineteen months due to incarceration. *Id.* Based upon that statement, the undersigned indicated that if funding presents an issue for purposes of representation, counsel may be appointed for Defendant given her financial status. *Id.*

3. If you were retained for the district court proceedings and the defendant is unable to bear the cost of the appeal, a motion for leave to proceed in forma pauperis should be filed with the district court. Counsel cannot be appointed and a transcript cannot be provided at government expense unless the defendant obtains IFP status.


Doc. 67, ¶3.

The court will, therefore, interpret Defendant's pending motion (Doc. 68) and her CJA 23 financial affidavit (Doc. 65-1) as a request for in forma pauperis status. Matters related to the withdrawal and appointment of appellate counsel are best addressed by the Eighth Circuit Court of Appeals. Although the court is mindful that Defendant previously retained Mr. Weir in the underlying criminal matter, the Court can infer that representation on appeal was not provided for in the fee agreement previously reached between Defendant and Mr. Weir. Upon a review of Defendant's CJA 23 financial affidavit (Doc. 65-1), the court finds that she is qualified to receive in forma pauperis status and that the requested relief should be granted.

IT IS ORDERED that Defendant Morris' motion (Doc. 68), interpreted by the court as a motion to proceed in forma pauperis, is **granted** and Defendant is granted forma pauperis status.

Although no current matters in the underlying criminal case requires appointment of counsel, the court finds that Defendant does qualify for the appointment of CJA counsel (no CJA voucher will be produced at this time since Defendant has been sentenced and no active District Court matters remain pending). Accordingly, Defendant may seek to have Mr. Weir appointed to represent her in the appeal pending before the Eighth Circuit Court of Appeals now that Defendant is granted in forma pauperis status.

IT IS SO ORDERED this 19th day of April, 2018.

  
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Kelly K.E. Mahoney  
United Magistrate Judge  
Northern District of Iowa