

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

SAQUAWN HARRIS,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

On Petition for Writ of Certiorari to the
District of Columbia Court of Appeals

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

Petitioner asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*. Counsel was appointed to represent Petitioner in the District of Columbia Court of Appeals under D.C. Code § 11-2602. A copy of the order of the District of Columbia Court of Appeals appointing counsel for Petitioner is appended to this motion.

Respectfully submitted,



SAMIA FAM, *Counsel of Record*
JOSHUA DEAHL
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Counsel for Petitioner

Dated: September 4, 2019

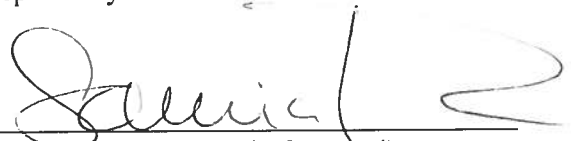
("Appellate courts are not permitted to affirm convictions on any theory they please simply because the facts necessary to support the theory were presented to the jury."); *Cole*, 333 U.S. at 201 ("[i]t is as much a violation of due process to send an accused to prison following conviction of a charge on which he was never tried as it would be to convict him upon a charge that was never made"); *Dunn*, 442 U.S. at 106 ("[A]ppellate courts are not free to revise the basis on which a defendant is convicted simply because the same result would likely obtain on retrial."); *Rewis*, 401 U.S. at 814 ("[W]e need not rule on this part of the Government's theory because it is not the interpretation . . . under which petitioners were convicted."); *Jackson*, 443 U.S. at 314 ("It is axiomatic that a conviction upon a charge not made or upon a charge not tried constitutes a denial of due process.").

The Court of Appeals' opinion giving such short shrift to fundamental constitutional rights should not evade correction simply because few, if any, other courts have gone so far afield. Summary reversal is warranted.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



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September 4, 2019

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CERTIFICATE OF SERVICE

Samia Fam, a member of the Bar of this Court and the Counsel of Record for Petitioner, hereby attests that on September 4, 2019, she sent one copy of the Motion for Leave To Proceed *In Forma Pauperis*, Petition for the Writ of Certiorari, and Appendix to:

Noel Francisco
Solicitor General of the United States
Office of the Solicitor General
950 Pennsylvania Avenue, NW
Washington, DC 20530

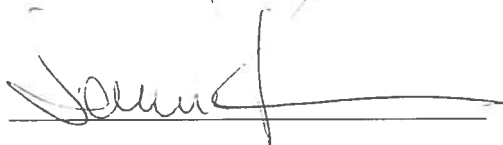
Elizabeth Trosman, Esquire
Chief of the Appellate Division
Office of the United States Attorney for the
District of Columbia
555 Fourth Street, NW
Washington DC 20530

by placing these documents in properly addressed envelopes with fully prepaid first-class postage affixed thereon, and depositing the envelopes with the United States Postal Service.

Electronic copies of these documents were also delivered via e-mail to:

supremectbriefs@usdoj.gov

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