

19-6005  ORIGINAL

No.

Supreme Court of the United States

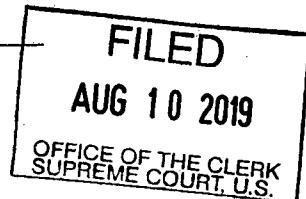
ROBERT L. MALONE,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.



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

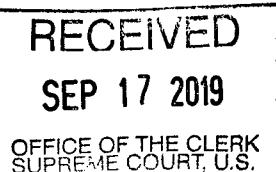
MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

COMES NOW PETITIONER ROBERT L. MALONE and respectfully moves this Honorable Court for leave to proceed in forma pauperis, in accordance with the provisions of Title 28, United States Code, Section 1915, and Rule 39 of the Rules of this Court.

The affidavit of Robert L. Malone in support of this motion is attached hereto.

Mr. Malone sought leave to proceed in forma pauperis in the court below.

Mr. Malone was granted leave to proceed in forma pauperis in the court below.



The statute under which Mr. Malone was appointed counsel by the Southern District of Indiana and Court. Therefore, in reliance upon Supreme Court Rule 39.1 and 18 U.S.C. § 3006A(d)(7), petitioner has *not* attached the affidavit which would otherwise be required.**

Presented herewith is Mr. Malone's Petition for Writ of Certiorari to the Court of Appeals for the Seventh Circuit.



Robert L. Malone
Petitioner
15253-028
P.O. Box 4000
Manchester, KY 40962

Date: 8-10-2019

** Supreme Court Rule 39.1 provides:

A party seeking to proceed in forma pauperis shall file a motion for leave to do so, together with the party's notarized affidavit or declaration (in compliance with 28 U.S.C. § 1746) in the form prescribed by the Federal Rules of Appellate Procedure, Form 4. The motion shall state whether leave to proceed in forma pauperis was sought in any other court and, if so, whether leave was granted. *If the United States district court or the United States court of appeals has appointed counsel under the Criminal Justice Act of 1964, 18 U.S.C. § 3006A, or under any other applicable federal statute, no affidavit or declaration is required, but the motion shall cite the statute under which counsel was appointed.*" *Id.* (As Amended Jan. 27, 2003, eff. May 1, 2003.) (emphasis added)

18 U.S.C. § 3006A(d)(7) provides:

(7) Proceedings before appellate courts. If a person for whom counsel is appointed under this section appeals to an appellate court or petitions for a writ of certiorari, he may do so without prepayment of fees and costs or security therefor and *without filing the affidavit required by section 1915(a) of title 28.* *Id.* (emphasis added)

USA v. Robert Malone, No. 18-1024 (7th Circuit)

01/03/2018 1 Criminal case docketed. IFP. Docketing statement filed. Transcript information sheet filed. Appellant's brief due on or before 02/12/2018 for Robert L. Malone. [1] [6893907] [18-1024] (CR) [Entered: 01/03/2018 03:31 PM]

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

January 17, 2018

By the Court:

UNITED STATES OF AMERICA,] Appeals from the United
Plaintiff-Appellee,] States District Court
] for the Southern District
Nos. 17-3431, 18-1024 & 18-1089 v.] of Indiana, Terre Haute
] Division.
JUSTIN SWAIN, ROBERT L. MALONE,]
and DONTA HENDERSON,]
Defendants-Appellants.] No. 2:15-cr-00019
]] Jane E. Magnus-Stinson,
] Chief Judge.

This matter comes before the court for its consideration of attorney James C. McKinley's **MOTION FOR LEAVE TO WITHDRAW AS APPELLANT'S COUNSEL**, filed on January 8, 2018 in appeal 18-1024. Upon consideration thereof,

IT IS ORDERED that the Motion to Withdraw is **GRANTED**.

IT IS FURTHER ORDERED that attorney Kent R. Carlson, CARLSON & ASSOCIATES, 53 W. Jackson Boulevard, Chicago, IL 60604, is appointed to represent defendant-appellant Robert L. Malone in appeal 18-1024 pursuant to the provisions of the Criminal Justice Act. Counsel is directed to contact the defendant-appellant immediately.

Briefing shall proceed as follows:

1. Defendants-appellants shall file their briefs and required short appendices on or before April 17, 2018.
2. Plaintiff-appellee shall file its consolidated brief on or before May 17, 2018.
3. Defendants-appellants shall file their reply briefs, if any, on or before May 31, 2018.

Nos. 17-3431 and 18-1024

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Counsel for appellants are encouraged to avoid unnecessary duplication by filing a joint brief or a joint appendix or by adopting parts of a co-appellant's brief. Duplicative briefing will be stricken. See *United States v. Martin*, Nos. 99-2621, et al., slip op. at 13-14 (7th Cir. Nov. 1, 1999); *United States v. Torres*, 170 F.3d 749 (7th Cir. 1999); *United States v. Ashman*, 964 F.2d 596 (7th Cir.1992).

Appellants, however, may not adopt the "Jurisdictional Statement" of another. Each appellant's brief must include a complete "Jurisdictional Statement." Appellee's brief must comply with Circuit Rule 28(b).

Important Scheduling Notice !

Notices of hearing for particular appeals are mailed shortly before the date of oral argument. Criminal appeals are scheduled shortly after the filing of the appellant's main brief; civil appeals after the filing of the appellee's brief. If you foresee that you will be unavailable during a period in which your particular appeal might be scheduled, please write the clerk advising him of the time period and the reason for such unavailability. Session data is located at <http://www.ca7.uscourts.gov/cal/calendar.pdf>. Once an appeal is formally scheduled for a certain date, it is very difficult to have the setting changed. See Circuit Rule 34(e).