

IN THE  
SUPREME COURT OF THE UNITED STATES

\_\_\_\_ No. 19-A982 \_\_\_\_

MELVIN RUSSELL,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

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Petition for a Writ of Certiorari to the  
United States Court of Appeals  
for the Tenth Circuit

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**MOTION TO PROCEED *IN FORMA PAUPERIS***

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## **MOTION TO PROCEED *IN FORMA PAUPERIS***

Petitioner Melvin Russell, by and through his counsel, Mark H. Donatelli and Alicia C. Lopez of Rothstein Donatelli, LLP, pursuant to Supreme Court Rule 39 and 28 U.S.C. §1915, hereby requests this Court to authorize Petitioner Russell to proceed with his petition for writ of certiorari in the above-captioned matter *in forma pauperis*. In support thereof, Petitioner Russell states as follows:

1. A criminal complaint was filed in the case below on July 7, 2014. Petitioner Russell was subsequently indicted by a federal grand jury on July 24, 2014, and a superseding indictment was filed on May 10, 2016.

2. On July 10, 2014, Petitioner Russell was appointed undersigned counsel Mark H. Donatelli under the Criminal Justice Act (CJA) due to his indigent status. A copy of the U.S. District Court for the District of New Mexico's Order of Appointment is appended to this Motion as Exhibit A.

3. Petitioner Russell was convicted after trial, after which he appealed his conviction to the Tenth Circuit Court of Appeals. The Tenth Circuit continued Mr. Donatelli's appointment under the CJA, and further approved undersigned counsel Alicia Lopez' work on the instant appeal under Mr. Donatelli's single voucher. A copy of the Tenth Circuit's Order of Appointment is appended to this Motion as Exhibit B.

4. Petitioner Russell has been continuously incarcerated from the time of his arrest in 2014.

5. Petitioner Russell's *Petition for Writ of Certiorari* in this matter is taken in good faith and involves a split in the United States Circuit Courts of Appeals regarding the analysis that governs application of Federal Rule of Evidence 412, and the three listed exceptions to that Rule. The United States Supreme Court has yet to address this issue.

WHEREFORE, the Petitioner, Melvin Russell, by and through his appointed counsel, requests this Court to authorize him to proceed with his petition for writ of certiorari in the above-captioned matter *in forma pauperis*.

Respectfully submitted,  
ROTHSTEIN DONATELLI LLP

/s/ Alicia C. Lopez

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## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 18<sup>th</sup> day of May, 2020 I served a copy of the Petition for a Writ of Certiorari and this Certificate of Service was sent via email and regular U.S. Mail to the following:

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Respectfully submitted,

ROTHSTEIN DONATELLI LLP

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