

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

EDWARD RONALD STAMPER, Petitioner,

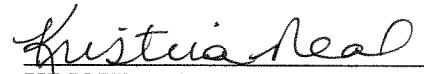
v.

UNITED STATES OF AMERICA, Respondent.

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The petitioner, by and through counsel, asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

Petitioner has previously been declared indigent by the United States Magistrate Judge, Keith Strong, and United States District Court Judge, Brian Morris. Thus, Petitioner was appointed counsel for both his trial and direct appeal proceedings and appointed counsel for his habeas district court and appeal proceedings. Copies of the orders appointing counsel for Petitioner are attached.


KRISTINA NEAL
Counsel of Record
4385 Wylie Drive
Helena, MT 59602

DATED: May 26, 2020

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

EDWARD RONALD STAMPER, Petitioner,

v.

UNITED STATES OF AMERICA, Respondent.

CERTIFICATE OF SERVICE

I, Kristina Neal, a member of the Bar of this Court, hereby certify that on MAY 26, 2020, a copy of the Petition of Writ of Certiorari and Motion to Proceed in Forma Pauperis in the above-entitled case were mailed, first class postage prepaid to: Jessica Betley, Assistant United States Attorney, United States Attorney's Office – Great Falls, P. O. Box 3447, 119 1st Avenue North, Suite 300, Great Falls, Montana 59403-3447 and Solicitor General of the United States, Room 5616, Department of Justice, 950 Pennsylvania Ave., N.W., Washington D.C. 20530-0001, counsel for all the respondents herein. I further certify that all parties required to be served have been served.


KRISTINA NEAL
Counsel of Record
4385 Wylie Drive
Helena, MT 59602

DATED: May 26, 2020

FILED
GREAT FALLS C.A.

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PATRICK E. DUFFY, CLERK
BY _____
DEPUTY CLERK

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

EDWARD RONALD STAMPER,

Defendant.

Case No. CR-11-79-GF-SEH

**ORDER APPOINTING COUNSEL:
THE FEDERAL DEFENDER**

Upon consideration of the completed CJA 23 Form submitted by the above-named Defendant, and having determined that the Defendant is financially unable to obtain counsel;

IT IS HEREBY ORDERED that the Attorney listed below is appointed to represent the Defendant at every stage of the proceedings from initial appearance through appeal, including ancillary matters appropriate to the proceedings:

EVANGELO ARVANETES
Assistant Federal Defender
Federal Defenders of Montana
Great Falls Office
P.O. Box 3547
Great Falls, MT 59403-3547
Phone: (406) 727-5328
Fax: (406) 727-4329
E-mail: vann_arvanetes@fd.org

IT IS FURTHER ORDERED that the Defendant shall pay the sum of

0 DOLLARS (\$ 0) per month to the Clerk of Court for defense costs in this matter, pursuant to 18 U.S.C. § 3006A(f). The first payment of \$ 0 shall be made on or before _____, and each subsequent payment shall be made on or before the _____ day of each month, during the pendency of this case. If, during the pendency of this matter, the Defendant's financial condition changes, the Defendant may petition the Court for a reduction in the defense costs in this matter.

Also pursuant to 18 U.S.C. § 3006, if investigation reveals that the Defendant owns or has control over assets not disclosed herein, the Defendant will be required to reimburse the United States for all or part of the defense costs expended in his behalf.

DATED this 30 day of August, 2011.


KEITH STRONG
UNITED STATES MAGISTRATE JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

vs.

EDWARD RONALD STAMPER,

Defendant/Movant.

CR 11-79-GF-BMM

ORDER

On September 29, 2014, Defendant Edward Ronald Stamper, a federal prisoner proceeding pro se, filed a supplement to his motion to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255.

The Court has reviewed the case file and Stamper's submissions at length. Although Stamper does not raise the issue, his designation as a career offender had a dramatic impact on his sentence by elevating his advisory guideline range from 168-210 months to 360-life. He was sentenced to serve 480 months in prison. The career-offender designation should be reviewed in light of the Supreme Court's decision in *Johnson v. United States*, No. 13-7120 (U.S. June 26, 2015). The Court does not suggest that Stamper successfully can make a claim under *Johnson*. Complex legal issues may be involved, or a *Johnson* claim may fall flat. The prospect should be assessed fully, however, and the matter fairly presented.

Stamper qualifies for the appointment of counsel under 18 U.S.C. § 3006A.

Sentencing Tr. (Doc. 91) at 21:14-16; Order (Doc. 6). The Court deems it in the interests of justice to appoint new counsel to represent him. 18 U.S.C. § 3006A(a)(2)(B). Stamper remains entitled to proceed pro se, if he chooses. He must respond to this Order by stating whether he wants new counsel to be appointed to act for him.

If counsel is appointed, he or she will be required to file an amended § 2255 motion that will supersede Stamper's pro se pleadings. Stamper would not be permitted to file documents pro se. If, on the other hand, Stamper chooses to proceed pro se, he will have to litigate his motion as best he can from prison. No special exceptions will be made for his status as a prisoner, he will not be entitled to special assistance with discovery or with legal research, and the Court will not be obliged to construe his pleadings or motions liberally, due to the fact he will have been given the opportunity to be represented by counsel.

Accordingly, IT IS HEREBY ORDERED that, on or before August 14, 2015, Stamper must respond to this Order by stating whether he wishes to have new counsel appointed to represent him or whether he intends to proceed pro se. Alternatively, Stamper may retain counsel. In that event, counsel must file a Notice of Appearance on or before August 14, 2015.

Stamper must immediately inform the Court of any change in his mailing address by filing a "Notice of Change of Address." Failure to do so may result in

dismissal of his motion without notice to him.

DATED this 9th day of July, 2015.



Brian Morris
United States District Court Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

vs.

EDWARD RONALD STAMPER,

Defendant/Movant.

Cause No. CR 11-79-GF-BMM

ORDER GRANTING MOTION FOR
COUNSEL AND VACATING
DEADLINES

This case is before the Court on Defendant/Movant Edward Ronald Stamper's motion under 28 U.S.C. § 2255. On November 16, 2015, Stamper moved for new counsel to represent him. Appointment of counsel is in the interests of justice, and Stamper is financially qualified. *See* Order (Doc. 125) at 1-2.

Stamper asks that new counsel show him any documents to be submitted before they are filed. The practicalities of that arrangement must be left to counsel.

Accordingly, IT IS HEREBY ORDERED as follows:

1. The Federal Defenders of Montana shall promptly locate conflict-free counsel to represent Stamper.
2. Counsel willing to accept the appointment shall immediately file a Notice of Appearance on Stamper's behalf. At that point the Court will issue a formal order of appointment and set a deadline for counsel to respond to the United

States' motion to dismiss.

3. Stamper's motion for extension of time (Doc. 140) is DENIED AS MOOT.

DATED this 7th day of November, 2015.

/s/ Brian M. Morris
Brian M. Morris
United States District Court

WENDY HOLTON

Attorney at Law

211 5th Avenue

Helena, MT 59610

(406) 442-9349

(406) 443-4829 (fax, call first)

wholton@mt.net

Attorney for Defendant-Appellant

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

UNITED STATES OF AMERICA,

Plaintiff/Appellee,

-vs.-

EDWARD RONALD STAMPER,

Defendant/Appellant.

U.S.C.A. No. 18-35517

**USDC No. CV-14-0047-BMM
District of Montana, Great Falls**

Unopposed Motion to Withdraw and for Appointment of Substitute Counsel

COMES NOW Wendy Holton, counsel for Edward Stamper, and moves for leave to withdraw from the above-captioned case. The undersigned is appointed pursuant to the Criminal Justice Act and respectfully requests that new counsel be appointed to represent Mr. Stamper for the purposes of filing a Petition

for a Writ of Certiorari.

Statement of reasons

1. After a jury found him guilty of sexual abuse in violation of 18 U.S.C. § 2242 (2)(B), Stamper was sentenced to 480 months of imprisonment and a lifetime of supervised release.
2. On direct appeal to this court Stamper challenged the sufficiency of the evidence. This Court upheld his conviction in an unpublished opinion. *United States v. Stamper*, 507 Fed. Appx. 723 (9th Cir. 2013). Stamper filed a Petition for a Writ of Certiorari which was denied on June 27, 2013.
3. On June 13, 2014, Stamper filed a Motion to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody challenging, among other things, the jury instruction regarding the application of the knowingly element of the offense. (DC Doc. 105) On May 23, 2018, the District Court entered its Order denying Stampers' Motion. (ER Vol. I, 43, DC Doc. 180) Stamper filed a timely Notice of Appeal on June 19, 2018. (ER Vol. III, 502, DC Doc. 181)
4. On November 18, 2019, this Court issued a Memorandum denying

Stamper's appeal. (Doc 38) On January 3, 2020, he filed a Petition for Rehearing with Suggestion for Rehearing en Banc. (Doc. 41) It was denied on February 28, 2020. (Doc. 43) Stamper's Petition for a Writ of Certiorari is currently due on May 28, 2020.

5. Counsel has recently accepted a position as the CJA Supervising Attorney with the Federal Defenders of Montana. Although she had hoped to complete this case, she was informed when she started the job on April 16, 2020, that she could not continue as counsel on any of her federal cases.
6. Mr. Stamper's current address is: Edward Stamper, AO 02760-046, FCI Petersburg Medium, Federal Correctional Institution, P.O. Box 1000, Petersburg, VA 23804
7. The undersigned has contacted the appointing authority, the Federal Defenders of Montana, who are prepared to appoint substitute counsel. In this regard, counsel informs the Court that the Federal Defenders have contacted CJA Panel Attorney Kristina Neal who has agreed to accept the case pending appointment. Ms. Neal began reviewing this case on April 17, 2020.

8. Counsel has contacted AUSA Jessica Betley regarding this motion. She has stated that she does not oppose.

Wherefore, it is respectfully requested that the undersigned be granted leave to withdraw and that new counsel be appointed to represent Mr. Stamper.

DATED April 28, 2020.

/s/ Wendy Holton
WENDY HOLTON
Attorney for Defendant/Appellant

CERTIFICATE OF SERVICE
Fed.R.App.P. Rule 25

I hereby certify that on April 28, 2020, I electronically filed the foregoing with the Clerk of the Court for the United States Court of appeals for the Ninth Circuit by using the appellate CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

DATED April 28, 2020.

/s/ Wendy Holton
WENDY HOLTON
Attorney for Petitioner/Appellant

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

APR 30 2020

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,
Plaintiff-Appellee,
v.
EDWARD RONALD STAMPER,
Defendant-Appellant.

No. 18-35517

D.C. Nos. 4:14-cv-00047-BMM
4:11-cr-00079-BMM-
1
District of Montana,
Great Falls

ORDER

Before: FARRIS, BEA, and CHRISTEN, Circuit Judges.

The Unopposed Motion to Withdraw and for Appointment of Substitute
Counsel (docket #44) is GRANTED.