

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

LUKE WILSON,

Defendant-Appellant.

No. 18-50440

D.C. No. 15-cr-2838-GPC
Southern District of California,
San Diego

MOTION TO PROCEED IN
FORMA PAUPERIS

MOTION

Pursuant to 18 U.S.C. § 3006A(d)(7), Mr. Wilson moves to proceed in forma pauperis. He is *not* asking for appointment of counsel, as his family is covering those costs. He seeks only waiver of the filing fee. The district court found he is indigent (exhibit A at 39), and he has completed a CJA-23 (exhibit B) in support of this request.

Respectfully submitted,

s/ Devin Burstein
Devin Burstein
Warren & Burstein
501 West Broadway, Suite 240
San Diego, Ca. 92101

Dated: January 16, 2019

Exhibit A

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, .
Plaintiff, . No. 15-cr-2838-GPC
v. . December 19, 2018
LUKE NOEL WILSON, . 1:30 p.m.
Defendant. . San Diego, California
.

TRANSCRIPT OF SENTENCING HEARING AFTER REMAND
BEFORE THE HONORABLE GONZALO P. CURIEL
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Plaintiff: United States Attorney's Office
By: AMANDA GRIFFITH, ESQ.
880 Front Street, Room 6293
San Diego, California 92101

For the Defendant: Warren & Burstein
By: DEVIN J. BURSTEIN, ESQ.
501 West Broadway, Suite 240
San Diego, California 92101

Court Reporter: Chari L. Bowery, RPR, CRR
USDC Clerk's Office
333 West Broadway, Suite 420
San Diego, California 92101
chari_bowery@casd.uscourts.gov

Reported by Stenotype, Transcribed by Computer

1 THE COURT: All right. Any response from the
2 government?

3 MS. GRIFFITH: Your Honor, I would prefer not to get
4 involved with whether or not the Court has the authority to
5 waive the Ninth Circuit -- we have no opinion.

6 THE COURT: All right. The Court has found that
7 Mr. Wilson is unable to afford the JVT. At this point, I will
8 waive the \$500 fee for a new notice of appeal, given the fact
9 that it has previously been paid by the defendant's family;
10 that the resentencing was not due to any mistake, any error by
11 Mr. Wilson; and that it would be unfair to require him to pay
12 an additional \$500 for a new notice of appeal.

13 MR. BURSTEIN: Thank you, Your Honor. If there's any
14 problem with that, I will submit a proposed order, but I think
15 the minute order should be sufficient.

16 THE COURT: All right. Anything else?

17 MS. GRIFFITH: Nothing from the government, Your
18 Honor.

19 MR. BURSTEIN: Nothing from the defense.

20 THE COURT: As to Count One, I know the government
21 had moved at the trial to dismiss that, so I think the record
22 should be clear on that. That's been dismissed.

23 We will just restate it. Is there any problem with
24 restating that Count One is a motion to dismiss?

25 MS. GRIFFITH: No, Your Honor. The government would

C-E-R-T-I-F-I-C-A-T-I-O-N

I hereby certify that I am a duly appointed, qualified and acting official Court Reporter for the United States District Court; that the foregoing is a true and correct transcript of the proceedings had in the aforementioned cause; that said transcript is a true and correct transcription of my stenographic notes; and that the format used herein complies with rules and requirements of the United States Judicial Conference.

DATED: January 5, 2019, at San Diego, California.

/s/ Chari L. Bowery

Chari L. Bowery
CSR No. 9944, RPR, CRR

Exhibit B

FD-204 (Rev. 5/98)

FINANCIAL AFFIDAVIT

IN SUPPORT OF REQUEST FOR ATTORNEY, EXPERT OR OTHER COURT SERVICES WITHOUT PAYMENT OF FEE

IN UNITED STATES ☐ MAGISTRATE ☐ DISTRICT ☒ APPEALS COURT or ☐ OTHER PANEL (Specify below)

IN THE CASE

United States V.S. Luke Wilson

FOR

AT

LOCATION NUMBER

PERSON REPRESENTED (Show your full name)

Luke Wilson

CHARGE/OFFENSE (describe if applicable & check box →)

18 USC 2252

☒ Felony
☐ Misdemeanor

- 1 ☐ Defendant-Adult
2 ☐ Defendant - Juvenile
3 ☒ Appellant
4 ☐ Probation Violator
5 ☐ Parole Violator
6 ☐ Habeas Petitioner
7 ☐ 2255 Petitioner
8 ☐ Material Witness
9 ☐ Other

DOCKET NUMBERS

Magistrate

District Court
15-cr-2838-GPCCourt of Appeals
18-50440

ANSWERS TO QUESTIONS REGARDING ABILITY TO PAY

ASSETS	EMPLOYMENT	Are you now employed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Am Self-Employed	
		Name and address of employer: _____	
		IF YES, how much do you earn per month? \$ _____	IF NO, give month and year of last employment 10/2015 How much did you earn per month? \$ 10,000
		If married is your Spouse employed? <input type="checkbox"/> Yes <input type="checkbox"/> No IF YES, how much does your Spouse earn per month? \$ _____ If a minor under age 21, what is your Parents or Guardian's approximate monthly income? \$ _____	
OTHER INCOME		Have you received within the past 12 months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, retirement or annuity payments, or other sources? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
		RECEIVED	SOURCES
		IF YES, GIVE THE AMOUNT RECEIVED & IDENTIFY THE SOURCES	\$ _____ \$ _____ \$ _____
CASH		Have you any cash on hand or money in savings or checking accounts? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No IF YES, state total amount \$ _____	
	PROPERTY	Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
		VALUE	DESCRIPTION
		IF YES, GIVE THE VALUE AND DESCRIBE IT	\$ _____ \$ _____ \$ _____
DEPENDENTS	MARITAL STATUS	Total No. of Dependents	List persons you actually support and your relationship to them
	<input checked="" type="checkbox"/> SINGLE <input type="checkbox"/> MARRIED <input type="checkbox"/> WIDOWED <input type="checkbox"/> SEPARATED OR DIVORCED	_____	_____ _____ _____
OBLIGATIONS & DEBTS	DEBTS & MONTHLY BILLS (LIST ALL CREDITORS, INCLUDING BANKS, LOAN COMPANIES, CHARGE ACCOUNTS, ETC.)	APARTMENT OR HOME: In custody	Creditors Total Debt Monthly Paymt.
			\$ _____ \$ _____
			\$ _____ \$ _____
			\$ _____ \$ _____

I certify under penalty of perjury that the foregoing is true and correct.

Executed on (date)

01/16/19

SIGNATURE OF DEFENDANT
(OR PERSON REPRESENTED)

Luke Wilson

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FEB 13 2019

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

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

LUKE NOEL WILSON,

Defendant-Appellant.

No. 18-50440

D.C. No. 3:15-cr-02838-GPC
Southern District of California,
San Diego

ORDER

Before: Peter L. Shaw, Appellate Commissioner.

On December 19, 2018, the district court waived the filing and docketing fees for this appeal.

Appellant's in forma pauperis status continues in this court. *See* Fed. R. App. P. 24(a)(3). Accordingly, appellant's motion to proceed in forma pauperis on appeal (Docket Entry No. 5) is therefore unnecessary.

The Clerk shall amend this court's docket to reflect that appellant is now proceeding in forma pauperis.

The previously established briefing schedule remains in effect.

The Clerk shall serve this order on appellant's retained counsel, Devin Burstein, Esq.

Within 21 days after the date of this order, counsel Burstein shall serve this order on appellant individually and provide this court with proof of such service showing appellant's registration number and current address.