

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

No. 18-50440

Plaintiff-Appellee,

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

v.

LUKE WILSON,

MOTION TO PROCEED IN
FORMA PAUPERIS

Defendant-Appellant.

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

13 | APPEARANCES:

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

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

22 Court Reporter: Chari L. Bowery, RPR, CRR
USDC Clerk's Office
23 333 West Broadway, Suite 420
San Diego, California 92101
24 chari_bowery@casd.uscourts.gov

25 | 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 JVTA. 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

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

2

3 I hereby certify that I am a duly appointed,

4 qualified and acting official Court Reporter for the United

5 States District Court; that the foregoing is a true and correct

6 transcript of the proceedings had in the aforementioned cause;

7 that said transcript is a true and correct transcription of my

8 stenographic notes; and that the format used herein complies

9 with rules and requirements of the United States Judicial

10 Conference.

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

12

13 /s/ Chari L. Bowery

14 _____
15 Chari L. Bowery
16 CSR No. 9944, RPR, CRR
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Exhibit B

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
ATLOCATION NUMBER
→

PERSON REPRESENTED (Show your full name)

→ Luke Wilson

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-GPC
Court of Appeals
18-50440CHARGE/OFFENSE (describe if applicable & check box →) Felony Misdemeanor

18 USC 2252

ANSWERS TO QUESTIONS REGARDING ABILITY TO PAY

EMPLOY- MENT	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 _____ How much did you earn per month? \$ 10,000 10/2015		
OTHER INCOME	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? \$ _____		
	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			
ASSETS	IF YES, GIVE THE AMOUNT \$ _____ RECEIVED & IDENTIFY \$ _____ THE SOURCES \$ _____	RECEIVED 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		
OBLIGATIONS & DEBTS	IF YES, GIVE THE VALUE AND \$ DESCRIBE IT \$ _____ \$ _____ \$ _____	VALUE DESCRIPTION		
	DEPENDENTS	MARITAL STATUS { <input checked="" type="checkbox"/> SINGLE <input type="checkbox"/> MARRIED <input type="checkbox"/> WIDOWED <input type="checkbox"/> SEPARATED OR DIVORCED	Total No. of Dependents _____	List persons you actually support and your relationship to them _____
	DEBTS & MONTHLY BILLS (LIST ALL CREDITORS, INCLUDING BANKS, LOAN COMPANIES, CHARGE ACCOUNTS, ETC.)	APARTMENT OR HOME: In custody	Creditors	Total Debt

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.