No. 20-1737

IN THE SUPREME COURT OF THE UNITED STATES

LUKE NOEL WILSON,

Petitioner,

v.

STATE OF CALIFORNIA,

Respondent.

Motion to proceed in forma pauperis (amended)

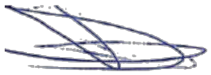
MOTION

Pursuant to Rule 39, petitioner Mr. Wilson moves to proceed in forma pauperis. He is *not* seeking appointment of counsel. He seeks to proceed in forma pauperis so that his family does not have to bear the added costs related to printing, binding, and filing before this Court. His family has already paid substantial attorney's fees. He is filing the amended motion along with his reply brief in support of his petition for a writ of certiorari.

Petitioner is incarcerated. In the related federal proceeding, the district court found petitioner indigent. *See* Case No. 15-cr-02838-GPC (Southern District of California). The United States Court of Appeals for the Ninth Circuit previously granted petitioner's motion to proceed in forma pauperis. *See* ECF No. 6 in Case No. 18-50440 (9th Cir. 2019). That motion is attached to this filing and contains a financial affidavit signed by petitioner. Also attached is the order of the Ninth Circuit granting the motion. Since that order, petitioner's finances remained unchanged.

Because Mr. Wilson is filing this motion to proceed in forma pauperis, he is filing his reply brief in support of his petition for a writ of certiorari in accordance with Rules 12.2, 15.6, and 33.2. If the Court denies this motion, Mr. Wilson respectfully requests an opportunity to refile his reply under the rules governing non-IFP replies.

Respectfully submitted,



Dated: December 4, 2021

Devin Burstein
* Counsel of Record
Warren & Burstein
501 West Broadway, Suite 240
San Diego, CA 92101
(619) 234-4433
db@wabulaw.com

Charles M. Sevilla
Law Offices of Charles Sevilla
402 W. Broadway, #720
San Diego, CA 92101
(619) 232-2222
chuck@charlessevilla.com

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
	.	1:30 p.m.
LUKE NOEL WILSON,	.	
	.	
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

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

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

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

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

THE COURT: All right. Anything else?

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

MR. BURSTEIN: Nothing from the defense.

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

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

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

FINANCIAL AFFIDAVIT

*s:CJA 23
Rev. 5/98

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-GPC
Court of Appeals 18-50440

ANSWERS TO QUESTIONS REGARDING ABILITY TO PAY

EMPLOYMENT

Are you now employed? ☐ Yes ☒ No ☐ 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? ☐ Yes ☐ 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? $

ASSETS

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? ☐ Yes ☒ 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? ☐ Yes ☒ 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)? ☐ Yes ☒ No

	VALUE	DESCRIPTION
IF YES, GIVE THE VALUE AND DESCRIBE IT	$	
	$	
	$	
	$	

OBLIGATIONS & DEBTS

DEPENDENTS

MARITAL STATUS
☒ SINGLE
☐ MARRIED
☐ WIDOWED
☐ 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:	Creditors	Total Debt	Monthly Paymt.
In custody		$	$
		$	$
		$	$
		$	$

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

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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.