

20-5176  
NO. \_\_\_\_\_

**ORIGINAL**

Supreme Court, U.S.  
FILED

JUL 10 2020

OFFICE OF THE CLERK

IN THE  
SUPREME COURT OF THE UNITED STATES  
OCTOBER TERM, 2020

---

NICHOLAS HARRIS, Petitioner

vs.

CALIFORNIA, Respondent

---

ON PETITION FOR WRIT OF CERTIORARI  
TO THE CALIFORNIA COURT OF APPEAL,  
SIXTH APPELLATE DISTRICT

---

MOTION FOR LEAVE TO PROCEED  
IN FORMA PAUPERIS

---

SIXTH DISTRICT APPELLATE PROGRAM

WILLIAM M. ROBINSON  
Assistant Director  
State Bar #95951  
95 S. Market Street, Suite 570  
San Jose, CA 95113  
(408) 241-6171  
Email: [bill@sdap.org](mailto:bill@sdap.org)

Counsel of Record for Petitioner  
NICHOLAS HARRIS

**RECEIVED**

JUL 22 2020

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

**MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS**

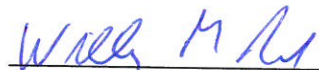
TO: THE HONORABLE CHIEF JUSTICE OF THE SUPREME COURT  
OF THE UNITED STATES AND TO THE HONORABLE  
ASSOCIATE JUSTICES OF THE COURT:

Pursuant to Rule 39 of the Rules of the Supreme Court of the United States, petitioner, Nicholas Harris, respectfully requests leave to file a petition for writ of certiorari in forma pauperis.

To show that petitioner was represented by appointed counsel in the court below, a declaration signed by counsel is appended, explaining the appointment process in California's Sixth Appellate District Court of Appeal, along with a copy of the notice of appeal showing that petitioner is indigent, and the order appointing the undersigned as counsel for petitioner.

Dated: July 10, 2020

Respectfully submitted,

  
\_\_\_\_\_  
WILLIAM M. ROBINSON  
Attorney for Petitioner,  
Nicholas Harris

## DECLARATION OF WILLIAM M. ROBINSON

I am an attorney licensed to practice in California. I am a member of the bar of this Court. I am the attorney of record for petitioner Nicholas Harris.

The facts stated in this declaration are within my personal and firsthand knowledge. If called as a witness in this action, I could and would testify competently under oath to the following facts.

On or about November 20, 2017, a notice of appeal filed on behalf of petitioner was lodged in the California Court of Appeal, Sixth Appellate District, which indicated he was indigent. A copy of this notice is attached as Exhibit A. On December 14, 2017, the Court of Appeal appointed the undersigned, William M. Robinson, as counsel for petitioner. A copy of the Counsel Appointment Order is appended to this declaration as Exhibit B. I have remained petitioner's counsel of record to this time.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 10th day of July, 2020, at San Jose California.

  
\_\_\_\_\_  
WILLIAM M. ROBINSON

# **EXHIBIT A**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address):

MOLLY O'NEAL, #150944  
MICHELLE VASQUEZ, #220882  
120 WEST MISSION STREET  
SAN JOSE, CA 95110

TELEPHONE NO.: (408) 299-7917

FAX NO.: (408) 998-8265

FOR COURT USE ONLY

**FILED**

SEP 14 2017

Clerk of the Court  
Superior Court of CA County of Santa Clara  
BY [Signature] DEPUTY

ATTORNEY FOR (Name): Nicolas Harris

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA

PEOPLE OF THE STATE OF CALIFORNIA

vs.

DEFENDANT: NICOLAS HARRIS

Date of birth: 04/27/1971 California Dept. of Corrections No. (if any): K53154

**NOTICE OF APPEAL—FELONY (DEFENDANT)**  
(Pen. Code, §§ 1237, 1237.5, 1538.5(m); Cal. Rules of Court, rule 8.304)

CASE NUMBER(S): 190602

**NOTICE**

- You must file this form in the SUPERIOR COURT WITHIN 60 DAYS after the court rendered the judgment or made the order you are appealing.
- IMPORTANT:** If your appeal challenges the validity of a guilty plea, a no-contest plea, or an admission of a probation violation, you must also complete the Request for Certificate of Probable Cause on page 2 of this form. (Pen. Code. § 1237.5)

1. Defendant appeals from a judgment rendered or an order made by the superior court.  
**NAME** of defendant: NICOLAS HARRIS

**DATE** of the order or judgment: August 10, 2017

2. Complete either item a. or item b. Do not complete both.

a. If this appeal is after entry of a plea or no contest or an admission of a probation violation, check all that apply

- (1) ☐ This appeal is based on the sentence or other matters occurring after the plea that do not affect the validity of the plea. (Cal. Rules of Court, rule 8.304(b).)
- (2) ☐ This appeal is based on the denial of a motion to suppress evidence under Penal Code section 1538.5.
- (3) ☐ This appeal challenges the validity of the plea or admission. (You must complete the Request for Certificate of Probable Cause on page 2 of this form and submit it to the court for its signature.)
- (4) ☐ Other basis for this appeal (You must complete the Request for Certificate of Probable Cause on page 2 of this form and submit it to the court for its signature) (specify):

b. For all other appeals, check one:

- (1) ☐ This appeal is after a jury or court trial. (Pen. Code, § 1237(a).)
- (2) ☐ This appeal is after a contested violation of probation. (Pen. Code, § 1237(b).)
- (3) ☒ Other (specify): Denial of petition for Resentencing pursuant to Penal Code § 1170.126

3. ☒ Defendant requests that the court appoint an attorney for this appeal. Defendant ☒ was ☐ was not represented by an appointed attorney in the superior court.

4. Defendant's mailing address is: ☒ same as in attorney box above.

☐ as follows:

Date:

Michelle Vasquez

(TYPE OR PRINT NAME)

[Signature: Michelle Vasquez]  
(SIGNATURE OF DEFENDANT OR ATTORNEY)

# **EXHIBIT B**

**SIXTH DISTRICT APPELLATE PROGRAM**

95 S. Market Street, Suite 570

San Jose, CA 95113

(408) 241-6171

**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SIXTH APPELLATE DISTRICT**

The People

v.

Nicolas Harris

) H045257

) SANTA CLARA

) Superior Court No. 190602


ORIGINAL

**COUNSEL APPOINTMENT ORDER**

Notice is hereby given that the SIXTH DISTRICT APPELLATE PROGRAM recommends the hereinafter named attorney for purposes of representing the above-named client.

William Robinson December 13, 2017

Respectfully submitted:



DALLAS SACHER

Executive Director

**Attorney's Address:**

William Robinson (95951)

Assistant Director

Sixth District Appellate Program

95 S. Market Street, Suite 570

San Jose, Ca 95113

(408) 241-6171 ext 102

bill@sdap.org

**Client's Address:**

Nicolas Harris

S:WMR