

No. _____

IN THE SUPREME COURT OF THE UNITED STATES OF AMERICA

**DIEGO PALACIOS-VILLALON,
Petitioner**

**v.
UNITED STATES OF AMERICA,
Respondent**

**ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATE COURT
OF APPEALS FOR THE FIFTH CIRCUIT**

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

Denton B. Lessman
Texas State Bar No: 24042474
100 N. 6th Street, Ste. 702
Waco, TX 76701
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Attorney for the Petitioner,
Diego Palacios-Villalon

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

COMES NOW, DIEGO PALACIOS-VILLALON, Petitioner, and requests leave to file the attached petition for writ of certiorari without prepayment of costs and to proceed in forma pauperis.

Undersigned counsel was appointed¹ to represent Petitioner in accordance with the Criminal Justice Act by the Honorable District Court for the Western District of Texas, Waco Division, and Petitioner has previously been granted permission to proceed in forma pauperis in the Fifth Circuit Court of Appeals.

Respectfully Submitted,

Law Office of Denton B. Lessman
100 N. 6th Street, Ste. 702
Waco, TX 76701
Telephone: (254) 776-4544
Fax: (254) 776-4551

/s/ Denton B. Lessman
Email: Denny@LessmanLaw.com
Attorney for the Petitioner,
Diego Palacios-Villalon

¹ A copy of the order of appointment is appended.

CERTIFICATE OF SERVICE

I, the undersigned attorney, hereby certify that a true and correct copy of the foregoing document has been served upon the following party(ies) via First Class Mail with Tracking on September 29, 2020:

Solicitor General of the United States
Room 5616, Department of Justice
950 Pennsylvania Ave. N.W.
Washington, DC 20530-001

United States Attorney for the Western District of Texas
Appellate Division
601 NW Loop 410, Suite 600
San Antonio, Texas 78216

Diego Palacios-Villalon BOP #33268-479
CI Great Plains
700 Sugar Creek Drive, Hinton, OK 73047

/s/ Denton B. Lessman
Attorney for Diego Palacios-Villalon

United States Court of Appeals
FIFTH CIRCUIT
OFFICE OF THE CLERK

**LYLE W. CAYCE
CLERK**

**TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130**

June 06, 2019

Mr. Denton Bryan Lessman
Law Office of Denton Lessman
100 N. 6th Street
Suite 702
Waco, TX 76701-0000

No. 18-41002 USA v. Diego Palacios-Villalon
USDC No. 7:17-CR-1929-1

Dear Mr. Lessman,

Enclosed is a copy of the court's order appointing you as counsel under the Criminal Justice Act. Information regarding your compensation and expense voucher will be provided separately. You must complete the voucher when the appeal concludes. You can obtain a copy of our Plan for Representation on Appeal Under the Criminal Justice Act, listing the duties and responsibilities of court-appointed counsel from the Fifth Circuit's website "<http://www.lb5.uscourts.gov/cja/cjaDocs/cja.pdf>".

Please carefully read and within 15 days from this date comply with the applicable instructions stated below.

ATTENTION ATTORNEYS: Direct access to the electronic record on appeal (EROA) for pending appeals will be enabled by the U S District Court on a per case basis. Counsel can expect to receive notice once access to the EROA is available. Counsel must be approved for electronic filing and must be listed in the case as attorney of record before access will be authorized. Instructions for accessing and downloading the EROA can be found on our website at www.ca5.uscourts.gov/attorneys/attorney-forms/eroa_downloads. Additionally, a link to the instructions will be included in the notice you receive from the district court.

Sealed documents, except for the presentence investigation report in criminal appeals, will not be included in the EROA. Access to sealed documents will continue to be provided by the district court only upon the filing and granting of a motion to view same in this court.

You must complete a transcript order form, which can be obtained from the court's website www.ca5.uscourts.gov. You are required

to electronically file the form via the 5th Circuit's Electronic Document Filing System even if the form was filed with the district court, and make financial arrangements with the court reporter. When completed, this meets your obligation to order the necessary portions of the court reporter's transcript, see FED. R. APP. P. 10(b). (If you are pro se and unable to afford payment, you must file a motion with the district court requesting transcript at government expense, and notify this court.) We will coordinate the transcript deadlines with the court reporter. The court reporter should contact you directly if an extension of time to file the transcript is granted. Failure to complete the transcript order form and make financial arrangements with the court reporter within 15 days will result in dismissal of the appeal in accordance with the rules.

Sincerely,

LYLE W. CAYCE, Clerk



By: Angelique B. Tardie, Deputy Clerk
504-310-7715

cc w/encl:
Ms. Carmen Castillo Mitchell

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 18-41002

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

DIEGO PALACIOS-VILLALON,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas

O R D E R:

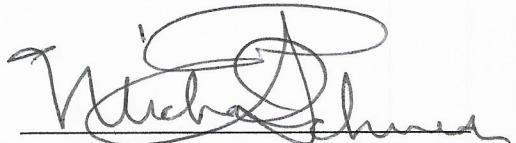
Diego Palacios-Villalon has filed pro se motions for appointment of counsel to represent him in his direct criminal appeal and for leave to proceed in forma pauperis (IFP). Palacios-Villalon was most recently represented in the district court by retained counsel, but he filed his notice of appeal pro se. His financial affidavit demonstrates that he is financially unable to retain counsel for his appeal.

Accordingly, Palacios-Villalon's motion for the appointment of counsel is GRANTED. *See* 18 U.S.C. § 3006A(a)-(c); FIFTH CIRCUIT PLAN FOR REPRESENTATION ON APPEAL UNDER THE CRIMINAL JUSTICE ACT §§ 3-5. The clerk is DIRECTED to appoint counsel and establish a briefing schedule once counsel is appointed. Palacios-Villalon's motion for leave to proceed IFP is DENIED AS UNNECESSARY. A defendant who is financially eligible for

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counsel under the Criminal Justice Act need not seek leave to proceed IFP on appeal. *See* § 3006A(d)(7).

FOR THE COURT:



MICHAEL E. SCHNEIDER
DEPUTY CLERK