

Case No. _____

In The
Supreme Court of the United States

SHUNTARIO JOHNSON,

Petitioner,

v.

UNITED STATES OF AMERICA

Respondent.

**ON PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT**

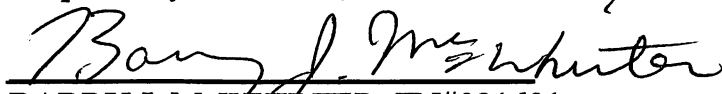
**MOTION FOR LEAVE TO PROCEED
IN FORMA PAUPERIS**

Barry J. McWhirter
McWhirter Law Firm, PLLC
80 Monroe Ave. Ste. L7
Memphis, TN 38103
(901) 522-9055

CJA Appointed Counsel for Shuntario Johnson

COMES NOW Petitioner, Shuntario Johnson, by and through undersigned counsel, pursuant to Supreme Court Rule 39.1 and 18 U.S.C. § 3006A(d)(7), and respectfully moves this Honorable Court for leave to proceed *in forma pauperis* and for leave to file the Petition for Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit without prepayment fees. Petitioner was represented by appointed counsel under the Criminal Justice Act in the District Court for the Western District of Tennessee and in the Sixth Circuit Court of Appeals. A copy of the District Court order appointing CJA counsel and a copy of the Sixth Circuit order extending CJA counsel's appointment is attached hereto at **EXHIBIT A**. Leave to proceed *in forma pauperis* was never sought in any other court.

Respectfully Submitted,



BARRY J. McWHIRTER, TN#021601

80 Monroe Ave. Ste. L7

Memphis, TN 38103

Telephone: (901) 522-9055

Facsimile: (901) 339-3562

CJA Appointed Counsel for Shuntario Johnson

EXHIBIT A

1
2
3
4 **UNITED STATES DISTRICT COURT**
5 **WESTERN DISTRICT OF TENNESSEE**
6

7 **UNITED STATES OF AMERICA,**

8 **vs**

9 **SHUNTARIO JOHNSON,**

Case No. 2:18-CR-20027-3-JTF-cgc

10
11 **ORDER APPOINTING COUNSEL**
12 **PURSUANT TO THE CRIMINAL**
13 **JUSTICE ACT**

14 This Court has determined that the above-named defendant is financially unable to
15 obtain adequate representation in the above-styled case, and is otherwise qualified for appointment
16 of counsel. Accordingly, the Court makes the following appointment pursuant to the Criminal
17 Justice Act (18 U.S.C. § 3006A):

18 Attorney Barry McWhirter, who is a member of the Criminal Justice Act Panel for
19 the Western District of Tennessee, is appointed as counsel for the defendant.

20 **DONE and ORDERED** February 12, 2018.

21 s/ Diane K. Vescovo
22 UNITED STATES MAGISTRATE JUDGE
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PACER fee: Exempt [Change](#)

General Docket
United States Court of Appeals for the Sixth Circuit

Court of Appeals Docket #: 20-5141**Docketed:** 02/05/2020

USA v. Shuntario Johnson

Termed: 12/09/2020**Appeal From:** Western District of Tennessee at Memphis**Fee Status:** In Forma Pauperis**Case Type Information:**

- 1) Criminal
- 2) Direct Criminal
- 3) null

Originating Court Information:**District:** 0651-2 : [2:18-cr-20027-3](#)**Court Reporter:** Mark S. Dodson**Court Reporter:** Ira Lynn Dudley**Court Reporter:** Kristy Farley**Court Reporter:** Lashawn Marshall**Court Reporter:** Lisa Joy Mayo**Court Reporter:** Karla L Seely**Trial Judge:** John Thomas Fowlkes, Junior, U.S. District Judge**Date Filed:** 01/26/2018**Date Order/Judgment:**

01/30/2020

Date NOA Filed:

01/31/2020

Prior Cases:

None

Current Cases:

None

UNITED STATES OF AMERICA
 Plaintiff - Appellee

Gregory David Allen
 Direct: 901-544-4231
 [COR NTC Government]
 Office of the U.S. Attorney
 Firm: 901-544-4231
 167 N. Main Street
 Suite 800
 Memphis, TN 38103

v.

SHUNTARIO JOHNSON
 Defendant - Appellant

Barry J. McWhirter
 Direct: 901-522-9055
 [COR LD NTC CJA Appointment]
 Law Office
 80 Monroe Avenue
 Suite L7
 Memphis, TN 38103

- 02/05/2020 ☐ [1](#) Criminal Case Docketed. Notice filed by Appellant Shuntario Johnson. Transcript needed: y. (ASM) [Entered: 02/05/2020 12:28 PM]
3 pg, 12.43 KB
- 02/05/2020 ☐ 2 The case manager for this case is: Antoinette Macon (ASM) [Entered: 02/05/2020 12:34 PM]
- 02/05/2020 ☐ 3 **RULING to extend appointment of Mr. Barry J. McWhirter for Shuntario Johnson as counsel under the Criminal Justice Act. (ASM) [Entered: 02/05/2020 12:38 PM]**
- 02/19/2020 ☐ [4](#) APPEARANCE filed for Appellant Shuntario Johnson by Barry J. McWhirter. Certificate of Service: 02/19/2020. [20-5141] (BJM) [Entered: 02/19/2020 06:22 PM]
1 pg, 100.26 KB
- 02/19/2020 ☐ [5](#) ****LOCKED**CORPORATE DISCLOSURE STATEMENT** filed by Attorney Mr. Barry J. McWhirter for Appellant Shuntario Johnson Certificate of Service: 02/19/2020. [20-5141]--Document not required in a criminal case-- (BJM) [Entered: 02/19/2020 06:23 PM]
1 pg, 47.11 KB
- 02/19/2020 ☐ 6 TRANSCRIPT ORDER filed - transcript is already on file in the District Court Clerks Office. Filed by Mr. Barry J. McWhirter for Shuntario Johnson. Certificate of Service: 02/19/2020. [20-5141] (BJM) [Entered: 02/19/2020 06:25 PM]
- 02/20/2020 ☐ [7](#) BRIEFING LETTER SENT setting briefing schedule: appellant brief due 03/31/202, appellee brief due 04/30/2020. (ASM) [Entered: 02/20/2020 03:30 PM]
5 pg, 30.6 KB
- 02/21/2020 ☐ [8](#) APPEARANCE filed for Appellee USA by Gregory D. Allen. Certificate of Service: 02/21/2020. [20-5141] (GDA) [Entered: 02/21/2020 12:57 PM]
1 pg, 75.12 KB
- 03/03/2020 ☐ [9](#) Pre-sentence report filed. (MH) [Entered: 03/03/2020 02:23 PM]
61 pg, 814.19 KB
- 03/17/2020 ☐ 10 TRANSCRIPT ordered from Mr. Mark S. Dodson, filed by Mr. Barry J. McWhirter for Shuntario Johnson. [10] ; ----- This is to order a transcript of the following proceedings and to certify that satisfactory financial arrangements have been completed ----- Transcript ordered on: 03/17/2020 ; District Court Judge/Magistrate: *John T. Fowlkes, Jr.* ; Hearing Dates: 1/30/2020 - *Sentencing Hearing* ; Method of Payment: *Criminal Justice Act CJA-24* Authorization Date: 03/17/2020 ; CJA-24 Authorization Number: 0651.101558 ; Court reporter acknowledgement is due in 14 days. Certificate of Service: 03/17/2020. [20-5141] (BJM) [Entered: 03/17/2020 05:24 PM]
- 03/18/2020 ☐ 11 NOTIFICATION: Setting acknowledgement deadline, relating to transcript order, [10]. Mark S. Dodson's acknowledgement is due 04/01/2020. (ASM) [Entered: 03/18/2020 08:49 AM]
- 03/18/2020 ☐ [12](#) RULING to hold briefing in abeyance. (ASM) [Entered: 03/18/2020 08:54 AM]
1 pg, 10.12 KB
- 04/09/2020 ☐ 13 NOTIFICATION: Setting transcript deadline, relating to transcript order, [10] Transcript to be filed in district court by Mark S. Dodson by 05/11/2020. (ASM) [Entered: 04/09/2020 03:36 PM]
- 04/13/2020 ☐ 14 Court Reporter Acknowledgement filed by Mr. Mark S. Dodson, for transcript [10] ; Arrangements remain pending completion of CJA voucher approval. [20-5141] (MSD) [Entered: 04/13/2020 03:54 PM]
- 04/14/2020 ☐ 15 NOTIFICATION: Resetting acknowledgement deadline, relating to transcript order, [10]. Acknowledgement deadline for Mark S. Dodson has been extended until 04/30/2020. (ASM) [Entered: 04/14/2020 09:50 AM]
- 04/17/2020 ☐ 16 Transcript, [10], has been filed in the District Court on 04/17/2020 ; Court Reporter: Mr. Mark S. Dodson ; Actual Number of Pages: 62 ; Actual Number of Volumes: 1 ; [20-5141] (MSD) [Entered: 04/17/2020 03:11 PM]
- 04/17/2020 ☐ [17](#) BRIEFING LETTER SENT setting briefing schedule: appellant brief due 05/27/2020, appellee brief due 06/26/2020. (ASM) [Entered: 04/17/2020 03:59 PM]
5 pg, 30.62 KB
- 05/28/2020 ☐ [18](#) ****LOCKED** APPELLANT BRIEF** filed by Mr. Barry J. McWhirter for Shuntario Johnson Certificate of Service: 05/28/2020. Argument Request: requested. [20-5141]--Please see brief correction letter.--[Edited 05/29/2020 by ASM] (BJM) [Entered: 05/28/2020 01:18 AM]
130 pg, 686.85 KB
- 05/28/2020 ☐ [19](#) MOTION filed by Mr. Barry J. McWhirter for Shuntario Johnson to exceed page limit. Certificate of Service: 05/28/2020. [20-5141] (BJM) [Entered: 05/28/2020 01:53 AM]
3 pg, 80.6 KB
- 05/28/2020 ☐ [20](#) MOTION filed by Mr. Barry J. McWhirter for Shuntario Johnson to extend time to file brief. Certificate of Service: 05/28/2020. [20-5141] (BJM) [Entered: 05/28/2020 04:21 AM]
3 pg, 95.15 KB
- 05/29/2020 ☐ [21](#) RULING LETTER SENT granting motion to extend time to file appellant brief [\[20\]](#) filed by Mr. Barry J. McWhirter. (ASM) [Entered: 05/29/2020 09:01 AM]
1 pg, 49.15 KB
- 05/29/2020 ☐ [22](#) BRIEFING LETTER SENT requesting brief corrections from Mr. Barry J. McWhirter for Shuntario Johnson. Corrected brief due: 06/05/2020. (ASM) [Entered: 05/29/2020 09:39 AM]
2 pg, 22 KB
- 05/29/2020 ☐ [23](#) RULING LETTER SENT granting motion to exceed page limit [\[19\]](#) filed by Mr. Barry J. McWhirter. (ASM)