

No. _____

In the Supreme Court of the United States

Rory Lee Zirkelbach,

Petitioner,

v.

United States of America,

Respondent.

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

Petitioner Rory Zirkelbach respectfully requests that this Court grant him leave to proceed in forma pauperis and to file the attached Petition for Writ of Certiorari to the U.S. Court of Appeals for the Eighth Circuit without prepayment of filing fees and costs. In support of this request, Petitioner states:

- (1) Petitioner is incarcerated and has been incarcerated since 2013.
- (2) Petitioner is unable to retain counsel and pay the costs associated with proceeding before this Court.
- (3) The U.S. District Court for the Northern District of Iowa concluded that Petitioner was unable to afford counsel and appointed undersigned counsel to handle this matter pursuant to 28 U.S.C. § 1915(e)(1). In relevant part, that statute provides “[t]he court may request an attorney to represent any person unable to afford counsel.” (Pet. App. at 2-3).

- (4) The U.S. Court of Appeals for the Eighth Circuit likewise appointed undersigned counsel “for the purpose of filing a petition for certiorari.” (Pet. App. at 4). Although the Eighth Circuit indicated appointment was not under the Criminal Justice Act, the Court did explicitly articulate the authority on which it relied. (*Id.*).

Because of Petitioner’s continuing inability to afford counsel and the finding of indigency below, Petitioner respectfully requests leave to proceed in forma pauperis pursuant to Rule 39.1 of the Supreme Court of the United States.

Dated: December 17, 2021

Respectfully Submitted,



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