

No. _____

In the Supreme Court of the United States

MAREK KOZUBAL,
Petitioner,
v.

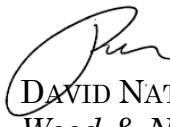
COMMONWEALTH OF MASSACHUSETTS,
Respondent.

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The Petitioner, Marek Kozubal, moves this honorable Court for leave to proceed *in forma pauperis*. He is unable to pay fees associated with this litigation or give security therefor. He believes that he is entitled to relief from a decision of the Massachusetts Supreme Judicial Court, and file his Petition for Certiorari seeking that relief.

Petitioner qualified for the appointment of counsel due to his indigence in state court pursuant to M.G.L. c. 211D, §§ 2, 5 regarding the matter now before the Court. He was appointed counsel. (Order attached).

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on March 14, 2022.



DAVID NATHANSON
Wood & Nathanson, LLP
50 Congress Street, Suite 600
Boston, MA 02109
(617) 248-1806
dnathanson@woodnathanson.com

COMMONWEALTH OF MASSACHUSETTS

NORFOLK COUNTY

NORFOLK SUPERIOR COURT
NO. 1682CR00289

COMMONWEALTH

v.

MAREK KOZUBAL

MOTION TO APPOINT COUNSEL

The defendant Marek Kozubal moves that the Court appoint undersigned counsel to represent Mr. Kozubal at resentencing. M.G.L. c. 211D, § 5; S.J.C. Rule 3:10. As reasons therefore, Kozubal states:

- (1) The Supreme Judicial Court recently vacated two of his convictions and remanded to this Court for resentencing. *Commonwealth v. Kozubal*, No. SJC-13092 (October 15, 2021).
- (2) The defendant has a right to counsel at sentencing. *Commonwealth v. Pacheco*, 477 Mass. 206, 214 (2017) (right to counsel for resentencing after vacating of probationary sentence).
- (3) Kozubal qualifies for the appointment of counsel. (affidavit of indigency, filed separately and impounded)¹

¹ *Kordis v. Superintendent*, 58 Mass. App. Ct. 902, 904 (2003) ("by order of the Supreme Judicial Court, as required by G.L. c. 261, § 27B, the financial information contained in an affidavit of indigency, pursuant to both G.L. c. 261, § 29 (inmate), and G.L. c. 261, § 27B (non-inmate), may not, except by order of the recipient court, be disclosed to anyone other than authorized court personnel, the applicant, the applicant's counsel or anyone authorized in writing by the applicant").

Allowed
B. Cannon
1/4/22