

No. 22-5997

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

FILED
OCT 03 2022
OFFICE OF THE CLERK
SUPREME COURT, U.S.

TARENCE KIRKLAND — PETITIONER

people ^(Your Name) of
STATE OF New York VS.

— RESPONDENT(S)

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The petitioner asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

Please check the appropriate boxes:

Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s):

County Court Westchester County New York
Supreme Court, Appellate Division 2nd Department, New York, State

Petitioner has not previously been granted leave to proceed *in forma pauperis* in any other court.

Petitioner's affidavit or declaration in support of this motion is attached hereto.

Petitioner's affidavit or declaration is not attached because the court below appointed counsel in the current proceeding, and:

The appointment was made under the following provision of law: _____
_____, or

a copy of the order of appointment is appended.

Tarence Kirkland
(Signature)

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

M270508
kbp/

ALAN D. SCHEINKMAN, P.J.
SYLVIA O. HINDS-RADIX
JOSEPH J. MALTESE
ANGELA G. IANNACCI, JJ.

2017-10699

RECEIVED

AUG 05 2020

TIMOTHY C. IDONI
COUNTY CLERK
COUNTY OF WESTCHESTER

The People, etc., respondent,
v Tarence Kirkland, appellant.

(Ind. No. 15-00868)

DECISION & ORDER ON MOTION
Motion for Poor Person Relief
and to Assign Counsel

Motion by Robert Hoffman for leave to withdraw as counsel for the appellant on an appeal from a judgment of the County Court, Westchester County, rendered September 1, 2017, following a trial. Separate motion by the appellant pro se for leave to prosecute the appeal as a poor person and for the assignment of counsel.

Upon the papers filed in support of the motion to withdraw as counsel and no papers having been filed in opposition or in relation thereto, and upon the papers filed in support of the motion for poor person relief and the assignment of counsel and the papers filed in opposition thereto, it is

ORDERED that the motions are granted; and it is further,

ORDERED that the appeal will be heard on the original papers (including a certified transcript of the proceedings, if any) and on the appellant's and the respondent's briefs; the parties are directed to file an original and five duplicate hard copies, and, if represented by counsel, one digital copy, of their respective briefs, and to serve one hard copy on each other (22 NYCRR 1250.9[a][4],[c][1],[d],[e]); additionally, the appellant is directed to file proof of service of a subpoena upon the clerk of the court of original instance requiring all documents constituting the record on appeal to be filed with the Clerk of this Court (22 NYCRR 1250.9[a][4][i]); and it is further.

ORDERED that the stenographer of the trial court is directed promptly to make, certify, and file two transcripts of the proceedings of any pretrial hearings, of the plea of guilty or of the trial, and of the imposition of sentence in this action, except for those minutes previously transcribed and certified (see 22 NYCRR 671.9); and it is further,

ORDERED that in the event that the case was tried to a conclusion before a jury, the stenographer shall also make, certify, and file two transcripts of the minutes of proceedings during jury selection; and it is further,

ORDERED that the clerk of the trial court shall furnish one certified transcript of each of the proceedings set forth above to the appellant's assigned counsel, without charge (*see CPL 460.70*); assigned counsel is directed to turn over those transcripts to the respondent when counsel serves the appellant's brief on the respondent; and it is further,

ORDERED that in the event the stenographer has already prepared a copy of any of the minutes for a codefendant, then the clerk of the trial court is directed to reproduce a copy thereof for assigned counsel; and it is further,

ORDERED that, upon service of a copy of this decision and order on motion upon it, the Department of Probation is hereby authorized and directed to provide assigned counsel with a copy of the presentence report prepared in connection with the appellant's sentencing, including the recommendation sheet and any prior reports on the appellant which are incorporated in or referred to in the report; and it is further,

ORDERED that in the event an issue as to the legality, propriety, or excessiveness of the sentence is raised on appeal, or if assigned counsel cites or relies upon the probation report in a brief or motion in any other way, counsel shall provide a complete copy of such report and any attachments to this Court and the respondent prior to the filing of such brief or motion; and it is further,

ORDERED that pursuant to County Law § 722 the following named attorney is assigned as counsel to prosecute the appeal:

Adam Seiden
9 West Prospect Ave., Ste 403
Mt. Vernon, NY 10550

and it is further,

ORDERED that the appellant's time to perfect the appeal is extended; assigned counsel shall prosecute the appeal expeditiously in accordance with this Court's rules (*see 22 NYCRR 1250.9*) and written directions; and it is further,

ORDERED that in the event the file has been sealed, it is hereby unsealed for the limited purpose of allowing assigned counsel or his or her representative access to the record for the purpose of preparing the appeal; such access shall include permission to copy the papers insofar as they pertain to the appellant; and it is further,

ORDERED that assigned counsel is directed to serve a copy of this decision and order on motion upon the clerk of the court from which the appeal is taken.

SCHEINKMAN, P.J., HINDS-RADIX, MALTESE and IANNACCI, JJ., concur.

ENTER: 

Aprilanne Agostino
Clerk of the Court

Appellant's Address:

17-A-3724
Greene Corr. Fac.
PO Box 975
Coxsackie, New York 12051-0975