

IN THE
SUPREME COURT OF THE UNITED STATES

Scott Ray Bishop,

Petitioner,

v.

United States of America,

Respondent,

On Petition for Writ of Certiorari to the
United States Court of Appeals for the Tenth Circuit

APPENDIX C

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

April 4, 2022

Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

SCOTT RAY BISHOP,

Defendant - Appellant.

No. 21-4085
(D.C. No. 2:20-CV-00777-DBB)
(D.C. No. 2:16-CR-00662-DB)
(D. Utah)

ORDER

Before **ROSSMAN**, Circuit Judge.

Scott Ray Bishop seeks to appeal the denial of his motion to vacate or correct sentence under 28 U.S.C. § 2255. To do so, he requires a certificate of appealability (COA). *See* 28 U.S.C. § 2253(c)(1)(B). The district court declined to issue a COA, and Mr. Bishop has now requested one from this court. I grant his request.

A COA will be granted “only if the applicant has made a substantial showing of the denial of a constitutional right.” *Id.* § 2253(c)(2). I conclude Mr. Bishop has satisfied that standard with respect to the following issues:

(1) Whether Mr. Bishop voluntarily, knowingly, and intelligently waived his right to counsel at trial.

(2) Whether Mr. Bishop's counsel on direct appeal provided ineffective assistance of counsel by failing to raise the issue of whether he voluntarily, knowingly, and intelligently waived his right to counsel at trial.

In addition, I direct that Criminal Justice Act counsel be appointed on behalf of Mr. Bishop. *See* 18 U.S.C. § 3006A(a)(2)(B). Specifically, the Office of the Federal Public Defender for the Districts of Colorado and Wyoming is appointed under the CJA to represent Mr. Bishop in this matter. Contact information for new counsel is:

Office of the Federal Public Defender
Districts of Colorado and Wyoming
633 17th St., Suite 1000
Denver, CO 80202
(phone) 303-294-7002

Within 7 days of the date of this order, new counsel shall file an entry of appearance.

In addition, within 40 days of the date of this order, new counsel shall file a supplemental opening brief on Mr. Bishop's behalf addressing the issues identified above. That brief should comply with all Federal Rules of Appellate Procedure and local rules of this court applicable to filing opening briefs generally. The record on appeal for this matter was docketed on October 6, 2021.

Within 30 days of service of the supplemental opening brief, the United States shall file a response brief. That brief should likewise comply with all Federal Rules of Appellate Procedure and local rules applicable to filing response briefs. Within 21 days

of service of that brief, Mr. Bishop may file an optional reply related to these claims.

Entered for the Court

A handwritten signature in black ink, appearing to read 'C. Wolpert', with a long horizontal stroke extending to the right.

CHRISTOPHER M. WOLPERT, Clerk

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

Byron White United States Courthouse

1823 Stout Street

Denver, Colorado 80257

(303) 844-3157

Clerk@ca10.uscourts.gov

Christopher M. Wolpert
Clerk of Court

Jane K. Castro
Chief Deputy Clerk

April 04, 2022

Ms. Virginia L. Grady
Office of the Federal Public Defender
Districts of Colorado and Wyoming
633 17th Street, Suite 1000
Denver, CO 80202

RE: 21-4085, United States v. Bishop
Dist/Ag docket: 2:20-CV-00777-DBB, 2:16-CR-00662-DB

Dear Counsel:

You have been appointed as counsel for appellant pursuant to the Criminal Justice Act, 18 U.S.C. 3006A. The order appointing you has been docketed in the above-referenced appeal. If an adverse decision is rendered you must advise your client of the right to seek review of this court's decision by petition for certiorari. If the client requests, and you believe a petition to be legally sound, you must file one with the clerk of the Supreme Court of the United States. *See* Criminal Justice Act Plan, 10th Cir. R., Addendum I.

Please contact this office if you have questions.

Sincerely,



Christopher M. Wolpert
Clerk of Court

cc: Scott Ray Bishop
Elizabethanne Claire Stevens
Jennifer Paisner Williams

CMW/jm