

No. _____

IN THE

Supreme Court of the United States

PATRICK LEONARD MARTINEZ,

Petitioner,

v.

BOBBY LUMPKIN,

Respondent.

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*.

Petitioner has previously been granted leave to proceed *in forma pauperis* by the United States District Court for the Western District of Texas, as well as by the 171st District Court of El Paso County, Texas. Petitioner's affidavit or declaration is **not** attached because the court below appointed counsel, and a copy of the order appointing is appended.

EL PASO COUNTY PUBLIC DEFENDER
Attorneys for Petitioner

/s/Nicholas Vitolo
Nicholas C. Vitolo
Assistant Public Defender
500 E. San Antonio, Room 501
El Paso, Texas 79901
(915) 546-8185
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Counsel of Record

IN THE 171ST DISTRICT COURT
EL PASO COUNTY, TEXAS

FILED
NORMA L. FAVELA
DISTRICT CLERK

2014 AUG -7 PM 1:19

THE STATE OF TEXAS

*

*

vs.

Cause No. 20130D04142

TRACK NO:

SO:

EL PASO COUNTY, TEXAS

PATRICK LEONARD MARTINEZ

DOB: 04/22/1979

CHARGE: SEX ABUSE OF CHILD CONTINUOUS: VICTIM UNDER 14

ARRESTED: 05/03/2013

ORDER APPOINTING ATTORNEY ON APPEAL

DEAR JANET BURNETT, ASSISTANT PUBLIC DEFENDER:

YOU HAVE BEEN APPOINTED TO REPRESENT THE DEFENDANT IN THE ABOVE STYLED AND NUMBERED CAUSE. THIS APPOINTMENT CONTINUES UNTIL CHARGES ARE DISMISSED, THE DEFENDANT IS ACQUITTED, APPEALS ARE EXHAUSTED TO THE 8TH COURT OF APPEALS, OR IN THE CASE OF A DEATH PENALTY CASE, COMPLETION OF THE DIRECT APPEAL TO THE COURT OF CRIMINAL APPEALS. THE ATTORNEY MAY BE RELIEVED OF THE APPOINTMENT OR REPLACED BY OTHER COUNSEL ONLY AFTER A FINDING OF CAUSE IS ENTERED ON THE RECORD. (ART. 26.04(j) (2)). **YOU ARE NOT RELIEVED OF THIS APPOINTMENT** AND CANNOT BE RELIEVED OF THIS DUTY EVEN BY SUBSTITUTION WITHOUT A MOTION AND ORDER SIGNED BY THE COURT (SEE LOCAL RULE 5.03).

ATTACHED IS THE "ATTORNEY VERIFICATION" FORM WHICH YOUR APPOINTMENT CONTINUES THROUGH THE APPEAL TO THE 8TH SUPREME JUDICIAL COURT, UNLESS THE TRIAL COURT PERMITS YOUR WITHDRAWAL.

IF THE DEFENDANT IS IN CUSTODY IN THE EL PASO COUNTY DETENTION FACILITY, YOU ARE DIRECTED TO CONDUCT YOUR INITIAL INTERVIEW WITH THE DEFENDANT **WITHIN FORTY-EIGHT (48) HOURS**. WHEN THE FINAL JUDGEMENT IS ENTERED IN THIS CAUSE, PLEASE FILE THE VOUCHER WITH THE TRIAL COURT WITHIN 5 DAYS. YOU MAY USE ADDITIONAL SHEETS IF NECESSARY. INVESTIGATION AND CERTAIN OTHER EXPENSES MUST HAVE PRIOR COURT APPROVAL. SEE 1986, ATTORNEY REIMBURSEMENT GUIDELINES.

SIGNED: 8/7/2014.



JUDGE BOLINA RANGEL
171ST DISTRICT COURT

JANET BURNETT, ASSISTANT PUBLIC DEFENDER

915-546-8186

Bondsman:

Jail: Downtown

ATTORNEY VERIFICATION

(FORM APPROVED BY THE COUNCIL OF JUDGES 7/29/04)

Martinez provides an affidavit which shows the average six-month balance in his inmate trust account was \$973.19. Pet'r's Appl. 3. It also shows the average monthly deposit in the account was \$393.83. Id. This information supports a conclusion that he is economically eligible to proceed in forma pauperis with an appeal. Moreover, the Court finds that Martinez—who was sentenced to fifty-two years' imprisonment after a jury found him guilty of continuous sexual abuse of a child younger than fourteen—may raise a non-frivolous or colorable issue on appeal.

Accordingly, the Court **GRANTS** Martinez's application to proceed in forma pauperis (ECF No. 21) and **DIRECTS** the Clerk of the District Court to immediately notify the parties and the Fifth Circuit Court of Appeals of this order.

SIGNED this 15th day of June 2021.

A handwritten signature in black ink, appearing to read 'Frank Montalvo', is written over a horizontal line.

FRANK MONTALVO
UNITED STATES DISTRICT JUDGE