

No. \_\_\_\_\_

\_\_\_\_\_  
IN THE  
SUPREME COURT OF THE UNITED STATES  
\_\_\_\_\_

John Holden  
\_\_\_\_\_  
(Your Name) — PETITIONER

VS.

United States of America  
\_\_\_\_\_ — 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):

\_\_\_\_\_ The United States District Court, Northern District of Indiana (see attached Order dated

December 12, 2022, ECF 038). - held that leave to proceed in forma pauperis was unnecessary.  
\_\_\_\_\_

☐ 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: \_\_\_\_\_  
the Criminal Justice Act \_\_\_\_\_, or

☒ a copy of the order of appointment is appended.

s/ Donald J. Schmid

\_\_\_\_\_  
Donald J. Schmid  
Court-Appointed Counsel for the  
Petitioner John Holden



Donald Schmid &lt;schmid@donaldschmidlaw.com&gt;

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**22-3160 USA v. John Holden "CJA Voucher Entry" (3:22-cr-00030-RLM-MGG-1)**

1 message

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**CA07\_CMECFMail@ca7.uscourts.gov** <CA07\_CMECFMail@ca7.uscourts.gov>

Fri, Dec 9, 2022 at 2:03 PM

To: schmid@donaldschmidlaw.com

**\*\*\*NOTE TO PUBLIC ACCESS USERS\*\*\*** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing.

**Seventh Circuit Court of Appeals****Notice of Docket Activity**

The following transaction was entered on 12/09/2022 at 1:03:44 PM Central Standard Time and filed on 12/09/2022

**Case Name:** USA v. John Holden**Case Number:** [22-3160](#)**Docket Text:**

TEXT ENTRY: Attorney Mr. Donald J. Schmid for Appellee John Holden is APPOINTED pursuant to the Criminal Justice Act. DW [2] [7278419] [22-3160] (JK)

**Notice will be electronically mailed to:**

Gary T. Bell, Clerk of Court  
Joel Gabrielse, Attorney  
Mr. Donald J. Schmid, Attorney

**General Docket  
Seventh Circuit Court of Appeals**

**Court of Appeals Docket #:** 22-3160

USA v. John Holden

**Appeal From:** Northern District of Indiana, South Bend Division

**Fee Status:** U.S. appellant

**Docketed:** 12/01/2022

**Termed:** 06/16/2023

**Case Type Information:**

- 1) criminal
- 2) Interlocutory (I)
- 3) -

**Originating Court Information:**

**District:** 0755-3 : [3:22-cr-00030-RLM-MGG-1](#)

**Court Reporter:** Debra Jo Bonk, Court Reporter

**Sentencing Judge:** Robert L. Miller, Jr., District Court Judge

**Date Filed:** 04/13/2022

**Date Order/Judgment:**  
10/31/2022

**Date NOA Filed:**  
11/30/2022

**Prior Cases:**

None

**Current Cases:**

None

UNITED STATES OF AMERICA  
Plaintiff - Appellant

David E. Hollar, Attorney  
Direct: 219-937-5500  
[COR LD NTC US Attorney]  
OFFICE OF THE UNITED STATES ATTORNEY  
Suite 1500  
5400 Federal Plaza  
Hammond, IN 46320-0000

v.

JOHN HOLDEN  
Defendant - Appellee

Donald J. Schmid, Attorney  
Direct: 574-993-2280  
[COR LD NTC CJA Appointment]  
LAW OFFICES OF DONALD J. SCHMID  
Suite 200  
1251 N. Eddy Street  
South Bend, IN 46617

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FEDERAL PUBLIC AND COMMUNITY DEFENDERS OF THE  
SEVENTH CIRCUIT  
Amicus Curiae

Johanna M. Christiansen, Attorney  
Direct: 309-671-7891  
[COR LD NTC Fed Public Defender]  
OFFICE OF THE FEDERAL PUBLIC DEFENDER  
Suite 1500  
401 N. Main Street  
Peoria, IL 61602-0000

UNITED STATES OF AMERICA,  
Plaintiff - Appellant

v.

JOHN HOLDEN,  
Defendant - Appellee

12/01/2022	<input type="checkbox"/> <a href="#">1</a> 28 pg, 400.91 KB	Criminal case docketed. U.S. Appeal. Docketing statement filed. Appellant's brief due on or before 01/10/2023 for United States of America. Transcript information sheet due by 12/15/2022. [1] [7276716] [22-3160] (MM) [Entered: 12/02/2022 10:56 AM]
12/09/2022	<input type="checkbox"/> <a href="#">2</a>	TEXT ENTRY: Attorney Mr. Donald J. Schmid for Appellee John Holden is APPOINTED pursuant to the Criminal Justice Act. DW [2] [7278419] [22-3160] (JK) [Entered: 12/09/2022 01:03 PM]
12/09/2022	<input type="checkbox"/> <a href="#">3</a> 1 pg, 353.53 KB	Circuit Rule 26.1 Disclosure Statement and Appearance filed by Attorney Donald J Schmid for Appellee John Holden. [3] [7278522] (L-Yes; E-Yes; R-No) [22-3160] (Schmid, Donald) [Entered: 12/09/2022 04:45 PM]
12/12/2022	<input type="checkbox"/>	Terminated Attorney Joel Gabrielse and added Attorney David E. Hollar for Appellant USA in case 22-3160, pursuant to email notification from the Office of the U.S. Attorney regarding counsel of record. [7278615-2] [7278615] [22-3160] (JR) [Entered: 12/12/2022 10:26 AM]
12/12/2022	<input type="checkbox"/> <a href="#">4</a> 1 pg, 67 KB	Filed Seventh Circuit Transcript Information Sheet by Appellant USA. [4] [7278695] [22-3160] (Hollar, David) [Entered: 12/12/2022 01:15 PM]
01/04/2023	<input type="checkbox"/> <a href="#">5</a> 3 pg, 95.87 KB	Motion filed by Appellant USA to extend time to file appellant brief. [5] [7282461] [22-3160] (Hollar, David) [Entered: 01/04/2023 09:20 AM]
01/04/2023	<input type="checkbox"/> <a href="#">6</a> 1 pg, 103 KB	ORDER issued GRANTING motion to extend time to file appellant's brief. [5] Appellant's brief due on or before 02/09/2023 for United States of America. Appellee's brief due on or before 03/13/2023 for John Holden. Appellant's reply brief, if any, is due on or before 04/03/2023 for Appellant United States of America. SCR [6] [7282651] [22-3160] (PS) [Entered: 01/04/2023 03:02 PM]
02/09/2023	<input type="checkbox"/> <a href="#">7</a> 76 pg, 2.23 MB	Submitted appellant brief by David E. Hollar for Appellant USA. [7] NOTE: Access to this entry is limited to counsel of record. Once the document is approved by the court, it will be filed onto the court's docket as a separate entry which will be open to the public. [7290363] [22-3160] (Hollar, David) [Entered: 02/09/2023 03:48 PM]
02/09/2023	<input type="checkbox"/> <a href="#">8</a> 76 pg, 2.23 MB	Appellant's brief filed by Appellant USA. Paper copies due on 02/16/2023. Electronically Transmitted. REMINDER: If a case is designated to proceed to oral argument, hearing notices will be mailed shortly before the date of oral argument. Please note that counsel's unavailability for oral argument must be submitted by letter, filed electronically with the Clerk's Office, no later than the filing of the appellant's brief in a criminal case and the filing of an appellee's brief in a civil case. See Cir. R. 34(b)(3). The court's calendar is located at <a href="https://www.ca7.uscourts.gov/cal/argcalendar.pdf">https://www.ca7.uscourts.gov/cal/argcalendar.pdf</a> . Once scheduled, oral argument is rescheduled only in extraordinary circumstances. See Cir. R. 34(b)(4), (e). [8] [7290378] [22-3160] (LCP) [Entered: 02/09/2023 04:14 PM]
02/13/2023	<input type="checkbox"/> <a href="#">9</a>	Paper copies of appellant brief filed by Appellant USA. [9] [7290796] [22-3160] (GW) [Entered: 02/13/2023 11:27 AM]
02/28/2023	<input type="checkbox"/> <a href="#">10</a> 1 pg, 141.46 KB	NOTICE: Attorney Mr. David E. Hollar for Appellant USA will not be available for oral argument April 18-20, 2023 and May 16-18, 2023. [10] [7294100] [22-3160] (Hollar, David) [Entered: 02/28/2023 10:42 AM]
03/13/2023	<input type="checkbox"/> <a href="#">11</a> 73 pg, 1.41 MB	Submitted appellee brief by Donald J. Schmid for Appellee John Holden. [11] NOTE: Access to this entry is limited to counsel of record. Once the document is approved by the court, it will be filed onto the court's docket as a separate entry which will be open to the public. [7297126] [22-3160] (Schmid, Donald) [Entered: 03/13/2023 09:41 PM]
03/13/2023	<input type="checkbox"/> <a href="#">12</a> 2 pg, 95.11 KB	Brief deficiency letter sent to Appellee John Holden. [12] [7297133] [22-3160] (LCP) [Entered: 03/14/2023 08:19 AM]
03/13/2023	<input type="checkbox"/> <a href="#">14</a> 74 pg, 1.93 MB	Appellee's brief filed by Appellee John Holden. Paper copies due on 03/20/2023. Electronically Transmitted. REMINDER: If a case is designated to proceed to oral argument, hearing notices will be mailed shortly before the date of oral argument. Please note that counsel's unavailability for oral argument must be submitted by letter, filed electronically with the Clerk's Office, no later than the filing of the appellant's brief in a criminal case and the filing of an appellee's brief in a civil case. See Cir. R. 34(b)(3). The court's calendar is located at <a href="https://www.ca7.uscourts.gov/cal/argcalendar.pdf">https://www.ca7.uscourts.gov/cal/argcalendar.pdf</a> . Once scheduled, oral argument is rescheduled only in extraordinary circumstances. See Cir. R. 34(b)(4), (e). [14] [7297188] [22-3160] (LCP) [Entered: 03/14/2023 09:45 AM]
03/14/2023	<input type="checkbox"/> <a href="#">13</a> 74 pg, 1.93 MB	Re-Submitted appellee brief by Donald J. Schmid for Appellee John Holden. [13] NOTE: Access to this entry is limited to counsel of record. Once the document is approved by the court, it will be filed onto the court's docket as a separate entry which will be open to the public. [7297168] [22-3160] (Schmid, Donald) [Entered: 03/14/2023 09:19 AM]
03/19/2023	<input type="checkbox"/> <a href="#">15</a> 1 pg, 570.26 KB	NOTICE: Attorney Mr. Donald J. Schmid for Appellee John Holden will not be available for oral argument March 20-30, 2023, April 5-20 and 26-28, 2023, May 5 and 26, 2023, July 14-23, 2023, August 17, 2023, November 3, 2023, and December 4-8, 2023. [15] [7298326] [22-3160] (Schmid, Donald) [Entered: 03/19/2023 06:02 PM]

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

UNITED STATES OF AMERICA,	)	
	)	
	)	
v.	)	CAUSE NO. 3:22-CR-30 RLM-MGG
	)	
	)	
JOHN HOLDEN	)	

ORDER

John Holden has moved to proceed in forma pauperis on appeal. [Doc. 37]. An appellant must pay required fees upon filing a notice of appeal, Fed. R. App. P. 3(e). Relatedly, “a party to a district-court action who desires to appeal in forma pauperis must file a motion in the district court,” but “[a] party who . . . was determined to be financially unable to obtain an adequate defense in a criminal case, may proceed on appeal in forma pauperis without further authorization.” Fed. R. App. P. 24(a)(1), (3).

The government filed a notice of appeal of the court’s order granting Mr. Holden’s motion to dismiss. [Doc. 33]. Mr. Holden hasn’t filed any notice of appeal and noted in his affidavit that he wishes for the Court of Appeals to affirm this court’s order. Mr. Holden isn’t the appellant, so his motion is unnecessary. Fed. R. App. P. 3(e), 24(a)(1). Mr. Holden was also financially unable to obtain an adequate defense in his criminal trial, so his motion is unnecessary even if there is some portion of the court’s order that he wishes to appeal. Fed. R. App. P.

24(a)(3). Accordingly, the court DENIES AS UNNECCESARY Mr. Holden's motion to proceed in forma pauperis on appeal. [Doc. 37].

SO ORDERED.

ENTERED: December 12, 2022

/s/ Robert L. Miller, Jr.  
Judge, United States District Court

## PROOF OF SERVICE

I, Donald J. Schmid, do declare that on this date, October 3, 2023, as required by Supreme Court Rule 29, I have served the enclosed MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid.

The names and addresses of those served are as follows:

Solicitor General of the United States  
Room 5616, Department of Justice,  
950 Pennsylvania Ave., N. W.,  
Washington, DC 20530-0001

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 3, 2023.

*/s/ Donald J. Schmid*

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Donald J. Schmid

*Attorney for Petitioner John Holden*