

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

UNITED STATES OF AMERICA - RESPONDENT

VS

MARIO REYNOSO - PETITIONER

ON PETITION FOR WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR TENTH CIRCUIT

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* in the following courts: United States District Court for the District of New Mexico, United States Court of Appeals for the Tenth Circuit. A copy of the Order of the United States Court of Appeals for the Tenth Circuit appointing counsel is attached, in accordance with Rule 39.1 of this Court.

Respectfully submitted,

/s/ Kari S. Schmidt

Kari S. Schmidt, #11524

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United States v. Mario Reynoso

ATTACHMENT

Order Appointing Counsel

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

July 17, 2023

Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MARIO REYNOSO, a/k/a Mario
Hernandez,

Defendant - Appellant.

No. 20-2130
(D.C. No. 2:19-CR-00137-RB-1)
(D. N.M.)

ORDER

Before **MATHESON**, **BRISCOE**, and **CARSON**, Circuit Judges.

This matter is before us on Appellant's *Motion for Appointment of Counsel Pursuant to 28 U.S.C. § 3006A(c)*. We issued an Order and Judgment in this matter on June 29, 2021. The mandate issued on July 21, 2021. Appellant did not timely file a petition for writ of certiorari with the United States Supreme Court. He asserts that his court-appointed attorney failed to advise him of his right to petition for a writ of certiorari and the deadline for filing such a petition, and he attaches a letter he received from counsel following issuance of the Order and Judgment in this case, which supports that assertion. Appellant asks us to recall the mandate, vacate and reissue the judgment, and appoint new counsel to assist him in seeking timely review of the judgment in this appeal.

Upon consideration, the court finds that extraordinary circumstances warrant such relief. *See Wilkins v. United States*, 441 U.S. 468, 470 (1979). Accordingly, the motion is granted. The mandate issued on July 21, 2021 is recalled, and the Order and Judgement issued on June 29, 2021 is vacated. Upon receipt of the mandate, the Clerk shall reissue the Order and Judgment in its original form.

In addition, Attorney Kari Schmidt¹ is appointed pursuant to 18 U.S.C. § 3006A to represent Appellant in connection with a petition for writ of certiorari in accordance with Section VII of this court's Criminal Justice Act Plan. *See Tenth Circuit Rules, Addendum I.* **Within 7 days** of the date of this order, Ms. Schmidt shall enter her appearance in this matter.

Entered for the Court
CHRISTOPHER M. WOLPERT, Clerk

A handwritten signature in black ink, appearing to read "Jane K. Castro", with a long horizontal flourish extending to the right.

by: Jane K. Castro
Chief Deputy Clerk

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