

24-5037

ORIGINAL

IN THE SUPREME COURT OF THE UNITED STATES

FILED

APR 17 2024

WILLIAM J. KEMP
Petitioner / Appellant

Case No. _____

OFFICE OF THE CLERK
SUPREME COURT, U.S.

vs.

SUPERINTENDENT HUNTINGDON SCI,
THE ATTORNEY GENERAL OF THE COMMONWEALTH
OF PENNSYLVANIA,
Respondents / Appellees

Third Circuit No.: 21-3165

M.D. Pa No.: 4-19-cv-01366

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

NOW COMES your Petitioner pro se, William J. Kemp who respectfully moves this Honorable Court to permit him leave to proceed in this matter in forma pauperis, pursuant to this Honorable Court's Rule 39 and based upon the following:

- Paragraph 1 of Rule 39 requires that a party seeking to proceed in forma pauperis shall file a motion for leave to do so pursuant to the Rule. The Rule also states:

"If the court below appointed counsel for an indigent party, no affidavit or declaration is required, but the motion shall cite the provision of law under which counsel was appointed, or a copy of the order of appointment shall be appended to the motion." id.

- On December 15, 2022 the Court of Appeals for the Third Circuit did ORDER the appointment of David R. Fine, Esq., and Jonathan R. Vaitl, Esq., as counsel for your petitioner and appellant without compensation pursuant to 28 U.S.C. § 1915(e)(1). A copy of the ORDER is appended to this motion in Appendix A, Case 21-3165:Document 18, Order 12/15/22.
- Pursuant to Rule 39.2, which requires simultaneous filing of documents and motions for leave to proceed in forma pauperis, a Petition for Writ of Certiorari has been included with this motion for consideration by this

Honorable Court.

- According to the Circuit Court's ORDER of November 30, 2023 stating that appointed counsel's obligations are concluded, your Petitioner/Appellant is no longer represented by counsel. A copy of the ORDER is appended to this motion in Appendix B, Case 21-3165:Document 57, Order 11/30/23.
- As provided by Rule 39.2 for an inmate confined to an institution who is not represented by counsel, a single copy of this motion and the Petition for Writ of Certiorari are being provided to this Honorable Court.
- Pursuant to Rule 39.3, your Petitioner/Appellant avers his belief that every effort has been made to ensure these documents are in compliance with Rule 33.2 and other applicable Rules of this Honorable Court regarding documents filed by pro se litigants.
- Pursuant to Rule 39.4 and Rule 29, this motion and accompanying documents are timely filed and service is made in accordance with the included Declarations of Inmate Filing and Certificates of Service.
- Both the District Court and the Court of Appeals granted leave to proceed in forma pauperis in this matter, the latter appointing counsel, and your Petitioner/Appellant's status as an indigent and incarcerated inmate who is confined to an institution remains unchanged. Accordingly, your Petitioner/Appellant is neither able to afford an attorney, nor bear the costs and fees normally associated with litigation.

WHEREFORE, your Petitioner/Appellant respectfully moves this Honorable Court for foregoing reasons to grant this MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS and:

- A) Issue an ORDER granting leave to proceed in forma pauperis without paying costs or fees; and
- B) Accept for docketing and consideration the included PETITION FOR WRIT OF CERTIORARI; and
- C) Issue any other such ORDER as this Honorable Court may deem just and necessary to resolve the issues presented.

Respectfully submitted,


/s
William J. Kemp, pro se
Inmate# LM3734
SCI Huntingdon
1100 Pike Street
Huntingdon, PA 16654

April 17, 2024

Date

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 21-3165

Kemp v. Supt. Huntongdon SCI
(M.D.Pa. No. 4-19-cv-01366)

ORDER

David R. Fine, Esq. and Jonathan R. Vaitl, Esq. are hereby appointed as counsel for Appellant without compensation pursuant to 28 U.S.C. 1915(e)(1). This appointment shall remain in effect until termination of this case unless the Court grants the withdrawal or substitution of counsel earlier. Counsel shall have a period of 60 days from the date of this order to review the record. Prior to the expiration of that 60 day period, counsel shall advise the Clerk whether additional documents are necessary. If counsel does not need additional documents, the Clerk will issue a briefing schedule immediately after the 60 day review period ends. Counsel shall file the entry of appearance form within 14 days of the date of this order.

For the Court,

s/ Patricia S. Dodszuweit
Clerk

Dated: December 15, 2022
nmb/cc: William J. Kemp
David R. Fine, Esq.
Jonathan Vaitl, Esq.
Martin L. Wade, Esq.

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 21-3165

WILLIAM J. KEMP,
Appellant

v.

SUPERINTENDENT HUNTINGDON SCI;
THE ATTORNEY GENERAL OF THE COMMONWEALTH OF PENNSYLVANIA

(M.D. Pa. No. 4-19-cv-01366)

Present: SHWARTZ, Circuit Judge

1. Motion by Appellant Pro Se for Extension of Time to File Petition for Rehearing and for Clarification of Whether Counsel Represent Appellant;
2. Response by Pro Bono Counsel to Appellant's Pro Se Motion for Extension of Time to File Petition for Rehearing and Requesting Clarification Regarding Representation.

Respectfully,
Clerk/ARR

ORDER

Because Pro Bono counsel's obligation has concluded and Appellant Kemp seeks to file a rehearing petition pro se, his motion for an extension of time to file the petition is granted. Said petition shall be filed no later than January 5, 2024.

By the Court,

s/Patty Shwartz
Circuit Judge

Dated: November 30, 2023

ARR/cc:

Mr. William J. Kemp
Jonathan Vaitl, Esq.
Martin L. Wade, Esq.
Ronald Eisenberg, Esq.