

NO. _____

IN THE SUPREME COURT OF THE UNITED STATES

ROBERT WALKER, PETITIONER

V.

UNITED STATES OF AMERICA, RESPONDENT

Motion to Proceed In Forma Pauperis

Comes now Petitioner, Robert Walker, by and through counsel, Robert M. “Robby” Golden, and for his motion to proceed in forma pauperis states:

1. Petitioner desires to petition this Court for a writ of certiorari to review the judgment of the United States Court of Appeals for the Eighth Circuit affirming the United States District Court Court’s decision denying Mr. Walker’s motions for judgments of acquittal.

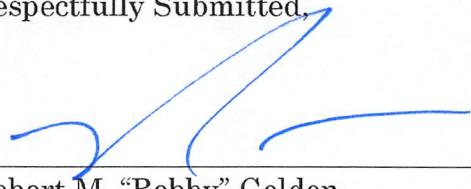
2. Petitioner is currently incarcerated at the Bureau of Prisons. On March 21, 2023, The United States District Court for the Eastern District of Arkansas appointed Mr. Louis Etoch represent Mr. Walker pursuant to the Criminal Justice Act. A copy of the order granting leave to proceed in forma pauperis and appointing Mr. Etoch is attached hereto as Exhibit “1.”

3. On March 29, 2023, Mr. Etoch was relieved as attorney of record and undersigned counsel was appointed to represent Walker under the provisions of the Criminal Justice Act. A copy of that order is attached hereto as Exhibit "2."

4. Undersigned counsel is an attorney that frequently accepts appointments pursuant to the Criminal Justice Act in the United States District Court for the Eastern District of Arkansas. Undersigned counsel was specifically appointed to represent Mr. Walker on appeal.

WHEREFORE, petitioner prays that he be permitted to proceed in forma pauperis.

Respectfully Submitted,



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Attorney for Petitioner

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION**

UNITED STATES OF AMERICA

V. 3:21CR00024 JM

ROBERT LANCE WALKER

ORDER

Pending is the Motion to Appeal in forma pauperis and for appointment of counsel.

Based upon the Court's review of the motion and the Defendant's financial affidavit, the Motion is GRANTED.

The Defendant has been represented by retained counsel, Louis Etoch, through trial and sentencing, but attests that he is without funds and unable to pay counsel for purposes of appeal. Pursuant to 18 U.S.C. § 3006A(c) and Rule 24 of the Federal Rules of Appellate Procedure, the Defendant requests appointment of counsel for purposes of appeal and leave to appeal without prepayment of fees.

"Requests for representation in criminal matters, including direct criminal appeals and the ancillary costs and fees attendant with an appeal, fall under the standards and procedures set forth under the Criminal Justice Act, 18 U.S.C. § 3006A ["CJA"]." *United States v. Osuna*, 141 F.3d 1412, 1414 (10th Cir. 1998). Section 3006A of the CJA provides in pertinent part:

If at any stage of the proceedings, including an appeal, the United States magistrate judge or the court finds that the person is financially unable to pay counsel whom he had retained, it may appoint counsel as provided in subsection (b) and authorize payment as provided in subsection (d), as the interests of justice may dictate.

18 U.S.C. § 3006A(c). Section 3006A further allows defendants for whom counsel is appointed to proceed on appeal “without prepayment of fees and costs or security therefore.” 18 U.S.C. § 3006A(d)(7).


“The standard for eligibility for section 3006A appointment is not indigence, but rather whether the party is ‘financially unable to obtain counsel.’” *Osuna*, 141 F.3d at 1414 (quoting *United States v. de Hernandez*, 745 F.2d 1305, 1310 (10th Cir. 1984)). The appropriate test of financial eligibility under § 3006A “necessarily varies with the circumstances presented, and no one method or combination of methods is required.” *United States v. Barcelon*, 833 F.2d 894, 896 (10th Cir. 1987). “Investigation of the applicant's assets, liabilities, income and obligations alone may constitute sufficient inquiry.” *Id.*

The Court has reviewed the Defendant’s financial affidavit which set forth his assets, liabilities, income and obligations. The Defendant is incarcerated and has no income. He is in arrears for child support in the amount of \$34,217. The Court thus finds that the Defendant is “financially unable” to pay counsel for purposes of the appeal, or the fees and costs associated with the appeal. In addition to 18 U.S.C. § 3006A, the Court finds that Defendant is authorized to proceed in forma pauperis under 28 U.S.C. § 1915 and Rule 24(a) of the Federal Rules of Appellate Procedure.

The Court further finds that it is in the interests of justice that the Court appoint Louis Etoch as counsel. Mr. Etoch is a CJA panel attorney with considerable criminal defense experience and has indicated his willingness to continue to represent the Defendant as appointed counsel. Given Mr. Etoch's familiarity with this case, the importance of continuity of representation and the potential for delay if new counsel is appointed, his continued representation will provide the most efficient and least disruptive course of action.

For these reasons, the Court grants the Defendant's motion to proceed in forma pauperis and for appointment of counsel (ECF No. 89).

IT IS SO ORDERED this 21st day of March, 2023.



James M. Moody Jr.
United States District Judge

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 23-1558

United States of America

Appellee

v.

Robert Lance Walker

Appellant

Appeal from U.S. District Court for the Eastern District of Arkansas - Northern
(3:21-cr-00024-JM-1)

ORDER

Mr. Louis A. Etoch's motion for leave to withdraw is granted, and Mr. Etoch is relieved of his Criminal Justice Act appointment in the case. It is further ordered that the motion for substitution of counsel is granted, and Mr. Robby Golden is appointed to represent appellant under the provisions of the Criminal Justice Act.

The parties shall observe the briefing schedule established on March 23, 2023.

March 29, 2023

Order Entered under Rule 27A(a):
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans