

No. _____

OCTOBER TERM 2024

IN THE SUPREME COURT OF THE UNITED
STATES

BARBARA KOWAL,

Petitioner,

V.

UNITED STATES DEPARTMENT OF JUSTICE, ET AL.,

Respondents.

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

COMES NOW THE PETITIONER, BARBARA KOWAL, by and through undersigned counsel, and moves the Court for leave to proceed in forma pauperis.

A. This Litigation Arises from a Federal Defender's Office's (FDO) Appointment Under the Criminal Justice Act (CJA).

Barbara Kowal is a paralegal in the Federal Defender's Office for the Middle District of Florida. On April 8, 2015, the United States District Court for the Southern District of Florida appointed that office to represent an indigent defendant, Daniel Troya, in his federal capital post-conviction proceedings

under the Criminal Justice Act, 18 U.S.C. § 3599(a)(2) (CJA).¹ Case No. 9:06-cr-80171-3, ECF No. 1148 (“Defendant Troya is indigent and, accordingly, . . . the Federal Public Defender for the Middle District of Florida . . . is appointed to serve as co-counsel in any and all available post-conviction relief proceedings.”) (Attach. A).²

As part of her paralegal duties, Petitioner requested records from the United States Department of Justice and several of its components regarding the investigation and prosecution of Mr. Troya under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. Some of those records were produced; others were withheld. After exhausting administrative remedies, the FDO, through Petitioner, filed a Complaint in the United States District Court for the District of Columbia, alleging that the agency’s withholdings were improper under the FOIA. 1:18-cv-002798-TJK, ECF No. 1.

The district court granted the defendants’ motion for summary judgment. *Kowal v. United States Dep’t of Just. et al.*, Civil Action No. 1:18-cv-02798 (TJK), 2022 WL 2315535 (D.D.C. June 27, 2022). Petitioner appealed to the United

¹ Prior courts have consistently found Mr. Troya indigent and allowed him to proceed *in forma pauperis*. The United States District Court for the Southern District of Florida determined Mr. Troya was indigent and appointed CJA counsel to represent him at trial. *United States v. Varela et al.*, Case No. 9:06-cr-80171-BB-3, ECF Nos. 4 and 916 (Attach. H). That appointment continued on direct appeal. *United States v. Troya*, 733 F.3d 1125 (11th Cir. 2013). When he subsequently petitioned this Court for a writ of certiorari, Mr. Troya sought leave to proceed *in forma pauperis*. Motion, *Troya v. United States*, 575 U.S. 995 (2015) (No. 13-10307). While the writ was denied, the distribution of Mr. Troya’s petition for conference suggests the IFP motion was implicitly granted.

² Undersigned counsel Leor Veleanu, an Assistant Federal Defender in the Middle District of Florida, also represents Mr. Troya.

States Court of Appeals for the District of Columbia Circuit. ECF No. 56. That court affirmed. *Kowal v. United States Dep't of Just., et al.*, 107 F.4th 1018, 1026 (D.C. Cir. 2024). The instant petition for writ of certiorari follows.

B. Lower Courts Previously Waived Petitioner's Docketing/Filing Fees.

Along with the FOIA Complaint, ECF No. 1, Petitioner also filed a Motion to Waive Filing Fee. 1:18-cv-002798-TJK, ECF No. 3 (Attach. B). The district court granted the motion. Minute Order of Dec. 11, 2018 (Attach. C). Upon filing her Notice of Appeal, ECF No. 56, Petitioner filed a Motion for Leave to Proceed on Appeal in Forma Pauperis, ECF No. 57 (Attach. D). The district court denied the motion without prejudice. Minute Order of Aug. 28, 2022 (Attach. E). It noted that, “generally speaking, a party who was permitted to proceed in forma pauperis in the district-court action . . . may proceed on appeal in forma pauperis without further consideration.” *Id.* (quoting Fed. R. App. P. §24(a)(3)) (internal quotation marks omitted). However, it found that proceeding in forma pauperis was distinct from having one’s fees waived. *Id.* It further found that the in forma pauperis motion lacked an appended affidavit from paralegal Kowal stating that she was unable to pay the filing fee due to her poverty, rendering it defective. *Id.*; *see also* 28 U.S.C. § 1915(a)(1).

On appeal, Petitioner filed a Motion to Waive Docketing Fee. Case No. 22-5231, Dkt. 1967945 (Attach. F). In a per curiam order, the Court of Appeals for the District of Columbia Circuit granted the motion, noting:

Appellant is employed by the Office of the Federal Public Defender for the Middle District of Florida, which was appointed to represent an inmate under the Criminal Justice Act, and she is pursuing these Freedom of Information Act cases in connection with that representation. See Guide to Judiciary Policy, Vol. 7A, § 230.66.30; see also U.S. Court of Appeals Miscellaneous Fee Schedule . . . (“Federal agencies or programs that are funded from judiciary appropriations [including] . . . individuals providing services authorized by the Criminal Justice Act . . . should not be charged any fees under this schedule.”).

Dkt. 1988715 (Attach. G).

C. The Court Should Grant Leave to Proceed in Forma Pauperis.

The Court may “fix the fees to be charged by its clerk.” 28 U.S.C. § 1911. Under its Rules, the clerk is to collect \$300 for docketing a case on a petition for writ of certiorari. R.U.S. § 38(a). However, Rule 39 allows a party to seek leave to proceed in forma pauperis. The Rules reflect a liberal standard for granting such a motion, which may be denied only where the Court is satisfied that the underlying petition is “frivolous or malicious.” *Id.* at § 39.8; *see also Zatko v. California*, 502 U.S. 46, 17-18 (1991) (“[T]he Court’s general practice is to waive all filing fees and costs for indigent individuals, whether or not the petitions those individuals file are frivolous.”). No allegation of such abuses exists here.

Petitioner’s FOIA requests were made in the public interest and were ancillary to Mr. Troya’s criminal postconviction proceedings. *See* 18 U.S.C. §3006A(c) (“A person for whom counsel is appointed shall be represented at every stage of the proceedings from his initial appearance . . . through appeal,

including ancillary matters appropriate to the proceedings.”); 18 U.S.C. § 3599(a)(2) (federally death-sentenced indigent defendant retains right to counsel throughout postconviction proceedings). Given this ancillary nature, this motion falls squarely within the Rule’s provision permitting a party on appeal to proceed in forma pauperis without further authorization given a previous finding of indigency. Fed. R. App. P. § 24(a)(3). *But see* § 24(a)(1)(A) (in forma pauperis motion requires poverty affidavit). Lower courts for both Petitioner and Mr. Troya have consistently waived filing fees and, in the case of Mr. Troya, found him to be indigent.³ As the named Complainant, Petitioner’s personal finances are of course irrelevant to these proceedings—she petitions the Court in her capacity as an employee of a federal defender’s office, which is itself a part of the United States Judiciary. *United States Courts-Defender Services*, <https://www.uscourts.gov/services-forms/defender-services> (visited on Dec. 7, 2024). Requiring Petitioner to pay the docketing fee here would be tantamount to the government billing itself.

Wherefore, Petitioner moves the Court for leave to proceed in this action in forma pauperis.

³ The district court’s denial without prejudice of Petitioner’s motion to proceed in forma pauperis hinged upon Rule 24(a)’s formal requirement of a poverty affidavit.

Respectfully submitted,



LEOR VELEANU

Counsel of Record

Member, Supreme Court Bar

Office of the Federal Defender

Middle District of Florida

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Tampa, FL 33602

(813) 228-2715

Leor_Veleanu@fd.org

Counsel for Petitioner Barbara Kowal

Dated: February 28, 2025

ATTACHMENTS

Notice of Substitution of Counsel (November 30, 2023)	A
Motion to Waive Filing Fee (November 30, 2018)	B
The United States District Court for the Middle District of Florida, Minute Order (December 11, 2018)	C
Motion for Leave to Proceed on Appeal in Forma Pauperis (August 26, 2022)	D
The United States District Court for the Middle District of Florida, Minute Order (August 28, 2022)	E
Motion to Waive Docketing Fee (October 6, 2022)	F
United States Court of Appeal for the District of Columbia Circuit, Order (March 6, 2023)	G
The United States District Court for the Southern District of Florida, Order (April 8, 2015)	H

ATTACHMENT “A”

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

DANIEL TROYA,

Movant,

v.

Case No. 9:16-CV-80700-CIV-BLOOM

UNITED STATES OF AMERICA,

Respondent.

NOTICE OF SUBSTITUTION OF COUNSEL

Assistant Federal Defender D. Todd Doss¹ is leaving the Office of the Federal Defender, Middle District of Florida, effective November 30, 2023. Assistant Federal Defender Leor Veleanu herein enters his appearance as counsel for Mr. Troya.

Respectfully Submitted,

/s/ Steven H. Malone
STEVEN H. MALONE
Steven H. Malone, P.A.
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West Palm Beach, FL 33401
Tele: 561-805-5805
Email: stevenhmalone@bellsouth.net
Florida Bar No. 305545
Counsel for Daniel A. Troya

/s/ Leor Veleanu
LEOR VELEANU, Esq.
Assistant Federal Defender
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Tele: (813) 228-2715
Florida Bar No. 0139191
Email: leor_veleanu@fd.org
Counsel for Daniel A. Troya

¹ Mr. Doss informed Mr. Troya of this substitution of counsel in person at the penitentiary.

ATTACHMENT “B”

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

BARBARA KOWAL,

Plaintiff,

v.

Civil Action No. 1:18-cv-02798

**UNITED STATES DEPARTMENT
OF JUSTICE,**

950 Pennsylvania Avenue, NW
Washington, DC 20530,

and

**BUREAU OF ALCOHOL, TOBACCO
FIREARMS, EXPLOSIVES**

Disclosure Division, Room 1E400
99 New York Avenue, NE
Washington, DC 20226

and

FEDERAL BUREAU OF INVESTIGATION

FBI Headquarters
935 Pennsylvania Avenue, NW
Washington, DC 20535-0001

and

DRUG ENFORCEMENT AGENCY

Freedom of Information Request/PA Unit
8701 Morrisette Drive
Springfield, VA 22152

Defendants.

MOTION TO WAIVE FILING FEE

Plaintiff Barbara Kowal, by and through undersigned counsel, respectfully requests that this Court waive the filing fee for the civil complaint filed in this case. In support of this motion, Plaintiff submits the following:

1. Plaintiff Kowal is an adult individual and resident of Apopka, Florida. Plaintiff Kowal is employed as a paralegal for the Office of the Federal Defender for the Middle District of Florida. Plaintiff's office is located in Orlando, Florida.

2. Defendant Department of Justice ("DOJ") is an agency of the United States Government. Defendant Bureau of Alcohol, Tobacco, Firearms, Explosives ("ATF"), Defendant Federal Bureau of Investigation ("FBI"), and Defendant Drug Enforcement Agency ("DEA"), are agencies of the United States Government and are components of Defendant DOJ. Defendants have possession, custody and control of the documents and records that Plaintiff seeks.

3. Plaintiff has filed an action for judicial review of final agency action pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and the Privacy Act of 1974 ("Privacy Act"), 5 U.S.C. § 552a. This Court has jurisdiction over the parties and subject matter of this action pursuant to 28 U.S.C. § 1331 (federal question), 5 U.S.C. § 552(a)(4)(B) (FOIA), and 5 U.S.C. § 552a(g) (Privacy Act).

4. Venue is proper in this judicial district under 5 U.S.C. § 552(a)(4)(B) and 5 §552(g)(5), which provide that the district court of the United States in the District of Columbia has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant.

5. As part of her responsibilities as a paralegal, Plaintiff routinely requests and obtains records related concerning indigent defendants represented by the Office of the Federal Defender. Plaintiff also routinely pursues further action to obtain documents requested by paralegals who preceded her in her current position.

6. This instant action for judicial review of final agency action pursuant to the FOIA and the Privacy Act is premised on Plaintiff's attempts under FOIA to secure the ATF, FBI and DEA documents and records in its possession, control, and custody.

7. The undersigned is also employed by the Office of the Federal Defender as an Assistant Federal Defender. On April 8, 2015, the Honorable Daniel T.K. Hurley, U.S. District Court Judge for the Southern District of Florida, appointed the undersigned's office to represent Daniel Troya, an indigent capital defendant in his federal post-conviction proceedings under 28 U.S.C. § 2255.¹

8. Pursuant to the *Guide to Judiciary Policy, Vol. 7 Defender Services, Part A: Guidelines for Administering the CJA and Related Statutes*, § 230.66.30 ("Filing Fees"): "Attorneys are not required to pay a filing fee in a CJA case, as such payment and reimbursement thereof is tantamount to the government billing itself to accomplish a transfer of appropriated funds in the General Fund of the Treasury."

9. The payment of a filing fee for the instant proceedings would be "tantamount to the government billing itself." Thus, a waiver of the filing fee for the contemporaneously filing action for judicial review pursuant to FOIA and that Privacy Act is appropriate.

10. Such waiver of the filing fee for FOIA litigation to obtain records in federal capital cases almost identical to the instant action has previously been approved by the United States District Court for the Eastern District of Pennsylvania in *Johnson v. Federal Bureau of Investigation*, Civil Action No. 14-1720, by the United States District Court for the District of Columbia in *Kagan-Kans v. U.S. Dept. of Justice and the Federal Bureau of Investigation*, Civil

¹ The undersigned and Plaintiff are employed by the Office of the Federal Defender for the Middle District of Florida. The Middle District Office was appointed as a result of conflicts within the Office of the Federal Defender for the Southern District of Florida related to Mr. Troya and his co-defendant's case(s).

Action No. 1:17-cv-01380-EGS, and by the United States District Court for the District of Columbia in *Kowal v. United States Department of Justice and Drug Enforcement Administration*, Civil Action No. 18-0938.

WHEREFORE, undersigned counsel respectfully requests that this Court waive the fees associated with the filing of the contemporaneously submitted action for judicial review pursuant to FOIA and the Privacy Act.

Respectfully Submitted,

/s/ D. Todd Doss

D. Todd Doss

Assistant Federal Defender

Federal Defender's Office, MDFL

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Orlando, FL 32801

Tele: 407-648-6338

Email: todd_doss@fd.org

Florida Bar No. 0810384

Counsel for Barbara Kowal

ATTACHMENT “C”

Jacque Burdick

From: DCD_ECFNotice@dcd.uscourts.gov
Sent: Tuesday, December 11, 2018 7:06 PM
To: DCD_ECFNotice@dcd.uscourts.gov
Subject: Activity in Case 1:18-cv-02798-TJK KOWAL v. UNITED STATES DEPARTMENT OF JUSTICE et al Order on Motion for Waiver

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U.S. District Court

District of Columbia

Notice of Electronic Filing

The following transaction was entered on 12/11/2018 at 7:06 PM EDT and filed on 12/11/2018

Case Name: KOWAL v. UNITED STATES DEPARTMENT OF JUSTICE et al

Case Number: [1:18-cv-02798-TJK](#)

Filer:

Document Number: No document attached

Docket Text:

MINUTE ORDER granting Plaintiff's [3] Motion to Waive Filing Fee. It is hereby ORDERED that Plaintiff's motion is GRANTED. The Clerk of Court is directed to waive the filing fee in this action, and the U.S. Marshals Service is directed to effect service on Defendants on Plaintiff's behalf. Signed by Judge Timothy J. Kelly on 12/11/2018. (lctjk2)

1:18-cv-02798-TJK Notice has been electronically mailed to:

Donald Todd Doss todd_doss@fd.org, barbara_kowal@fd.org, jacque_burdick@fd.org

1:18-cv-02798-TJK Notice will be delivered by other means to::

ATTACHMENT “D”

MIME-Version:1.0

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Subject:Activity in Case 1:18-cv-02798-TJK KOWAL v. UNITED STATES DEPARTMENT OF JUSTICE et al
Order on Motion for Leave to File

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U.S. District Court

District of Columbia

Notice of Electronic Filing

The following transaction was entered on 8/28/2022 at 10:24 PM and filed on 8/28/2022

Case Name: KOWAL v. UNITED STATES DEPARTMENT OF JUSTICE et al

Case Number: [1:18-cv-02798-TJK](#)

Filer:

WARNING: CASE CLOSED on 09/30/2021

Document Number: No document attached

Docket Text:

MINUTE ORDER denying without prejudice Plaintiff's [57] Motion for Leave to Proceed on Appeal *in Forma Pauperis*. Under Federal Rule of Appellate Procedure 24(a)(1), "a party to a district-court action who desires to appeal in forma pauperis must file a motion in the district court" and "must attach an affidavit" to that motion that "(A) shows in the detail prescribed by Form 4 of the Appendix of Forms the party's inability to pay or to give security for fees and costs; (B) claims an entitlement to redress; and (C) states the issues that the party intends to present on appeal." Plaintiff has filed a [57] Motion for Leave to Proceed on Appeal *in Forma Pauperis*, but she did not attach to it an affidavit containing the required information. Granted, generally speaking, a "party who was permitted to proceed in forma pauperis in the district-court action... may proceed on appeal in forma pauperis without further authorization." Fed. R. App. P. 24(a)(3). And Plaintiff asserts that she "was previously granted leave to proceed *in forma pauperis*" in this case. See ECF No. 57 at 2. But that is incorrect. Compare ECF No. 3 (moving the Court to "waive the filing fee for the civil complaint filed in this case" without including an affidavit in support), and Minute Order of December 11, 2018 (granting Plaintiff's "Motion to Waive Filing Fee"), with 28 U.S.C. § 1915(a)(1) (requiring a person seeking to proceed *in forma pauperis* to file an "affidavit" containing certain information). Further, if Plaintiff were correct, it is unclear why she seeks "further authorization" to "proceed on appeal in forma pauperis." See Fed. R. App. P. 24(a)(3). Thus, it is hereby ORDERED that Plaintiff's [57] Motion is DENIED WITHOUT PREJUDICE. Signed by Judge Timothy J. Kelly on 08/28/2022. (lctjk2)

1:18-cv-02798-TJK Notice has been electronically mailed to:

Jeremy S. Simon jeremy.simon@usdoj.gov, milton.pettus@usdoj.gov

Donald Todd Doss todd_doss@fd.org, ashley_diaz@fd.org, barbara_kowal@fd.org, eileen_roland@fd.org

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Order on Motion for Leave to File

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U.S. District Court

District of Columbia

Notice of Electronic Filing

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Case Name: KOWAL v. UNITED STATES DEPARTMENT OF JUSTICE et al

Case Number: [1:18-cv-02798-TJK](#)

Filer:

WARNING: CASE CLOSED on 09/30/2021

Document Number: No document attached

Docket Text:

MINUTE ORDER denying without prejudice Plaintiff's [57] Motion for Leave to Proceed on Appeal *in Forma Pauperis*. Under Federal Rule of Appellate Procedure 24(a)(1), "a party to a district-court action who desires to appeal in forma pauperis must file a motion in the district court" and "must attach an affidavit" to that motion that "(A) shows in the detail prescribed by Form 4 of the Appendix of Forms the party's inability to pay or to give security for fees and costs; (B) claims an entitlement to redress; and (C) states the issues that the party intends to present on appeal." Plaintiff has filed a [57] Motion for Leave to Proceed on Appeal *in Forma Pauperis*, but she did not attach to it an affidavit containing the required information. Granted, generally speaking, a "party who was permitted to proceed in forma pauperis in the district-court action... may proceed on appeal in forma pauperis without further authorization." Fed. R. App. P. 24(a)(3). And Plaintiff asserts that she "was previously granted leave to proceed *in forma pauperis*" in this case. See ECF No. 57 at 2. But that is incorrect. Compare ECF No. 3 (moving the Court to "waive the filing fee for the civil complaint filed in this case" without including an affidavit in support), and Minute Order of December 11, 2018 (granting Plaintiff's "Motion to Waive Filing Fee"), with 28 U.S.C. § 1915(a)(1) (requiring a person seeking to proceed *in forma pauperis* to file an "affidavit" containing certain information). Further, if Plaintiff were correct, it is unclear why she seeks "further authorization" to "proceed on appeal in forma pauperis." See Fed. R. App. P. 24(a)(3). Thus, it is hereby ORDERED that Plaintiff's [57] Motion is DENIED WITHOUT PREJUDICE. Signed by Judge Timothy J. Kelly on 08/28/2022. (lctjk2)

1:18-cv-02798-TJK Notice has been electronically mailed to:

Jeremy S. Simon jeremy.simon@usdoj.gov, milton.pettus@usdoj.gov

Donald Todd Doss todd_doss@fd.org, ashley_diaz@fd.org, barbara_kowal@fd.org, eileen_roland@fd.org

1:18-cv-02798-TJK Notice will be delivered by other means to::

ATTACHMENT “F”

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

BARBARA KOWAL,

Plaintiff-Appellant,

v.

**No. 22-5231
Oral Argument
Not Scheduled**

**UNITED STATES DEPARTMENT
OF JUSTICE, et al.,**

Defendants-Appellees.

MOTION TO WAIVE DOCKETING FEE

Appellant Barbara Kowal, by and through undersigned counsel, respectfully requests that this Court waive the docketing fee in this case. In support of this motion, Appellant submits the following:

1. Appellant Kowal is employed as a paralegal for the Office of the Federal Defender for the Middle District of Florida. Appellant's office is located in Orlando, Florida.¹

2. On April 8, 2015, the Honorable Daniel T.K. Hurley, U.S. District Court Judge for the Southern District of Florida, appointed Appellant's office to represent Daniel Troya, an indigent capital defendant in his federal post-conviction

¹ The undersigned is also employed by the Office of the Federal Defender as an Assistant Federal Defender.

proceedings under 28 U.S.C. § 2255. Appointment was made pursuant to the Criminal Justice Act (“CJA”), 18 U.S.C. § 3599(a)(2).²

3. The instant appeal concerns Appellant’s request under the Freedom of Information Act (“FOIA”) to obtain public records concerning Mr. Troya in the possession of the United States Department of Justice (“DOJ”) and its components: the Bureau of Alcohol, Tobacco, Firearms, and Explosive (“ATF”), the Federal Bureau of Investigation (“FBI”), and the Drug Enforcement Agency (“DEA”).

4. In the proceedings below, Appellant requested—and was granted—leave to waive the filing fee for the civil complaint.³

5. Specifically, Appellant noted that:

Pursuant to the *Guide to Judiciary Policy, Vol. 7 Defender Services, Part A: Guidelines for Administering the CJA and Related Statutes*, § 230.66.30 (“Filing Fees”): “Attorneys are not required to pay a filing fee in a CJA case, as such payment and reimbursement thereof is tantamount to the government billing itself to accomplish a transfer of appropriated funds in the General Fund of the Treasury.”

The payment of a filing fee for the instant proceedings would be “tantamount to the government billing itself.” Thus, a waiver of the filing fee for the contemporaneously filing action for judicial review pursuant to FOIA and that Privacy Act is appropriate.⁴

² See *United States v. Troya*, No. 9:06-cr-80171-DTKH (SDFL), *ORDER appointing the Federal Public Defender for the Middle District of Florida* (Dkt. 1148) (entered on Apr. 8, 2015).

³ See *Kowal v. Dep’t of Justice et al*, No. 1:18-cv-02798-TJK (D.D.C.), *MINUTE ORDER granting Plaintiff’s Motion to Waive Filing Fee* (entered on Dec. 11, 2018).

⁴ See *Kowal v. Dep’t of Justice et al*, No. 1:18-cv-02798-TJK (D.D.C.), *Plaintiff’s Motion to Waive Filing Fee* (Dkt. 3) at 3 (filed on Nov. 30, 2018).

6. Appellant respectfully submits that the same rationale counsels in favor of waiving the docketing fee here because requiring the undersigned to pay the fee would also be “tantamount to the government billing itself.”⁵

WHEREFORE, undersigned counsel respectfully requests that this Court waive the docketing fee in this case.

Respectfully submitted,

/s/ D. Todd Doss

D. Todd Doss

Assistant Federal Defender

Federal Defender’s Office, MDFL

201 South Orange Ave., Ste. 300

Orlando, FL 32801

Tele: 407-648-6338

Email: todd_doss@fd.org

Florida Bar No. 0810384

Counsel for Appellant Barbara Kowal

⁵ The undersigned had filed a motion in the District Court for leave to proceed on appeal *in forma pauperis*, which was denied without prejudice. *See id.*, *MINUTE ORDER* (entered Aug. 28, 2022). As the court noted in its order, leave to waive the filing fee is distinct from leave to proceed *in forma pauperis*. Accordingly, Appellant seeks to waive the docketing fee, rather than proceed *in forma pauperis*, given that Appellant’s office is a part of the Judiciary.

CERTIFICATE OF SERVICE

I certify that on October 6, 2022, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit by using the CM/ECF system. All participants in the case are registered CM/ECF users and will be served by the appellate CM/ECF system.

/s/ D. Todd Doss

D. Todd Doss

Assistant Federal Defender

ATTACHMENT “G”

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 22-5231**September Term, 2022****1:18-cv-02798-TJK****Filed On:** March 6, 2023

Barbara Kowal,

Appellant

v.

United States Department of Justice, et al.,

Appellees

BEFORE: Wilkins, Rao, and Walker, Circuit Judges

ORDER

Upon consideration of the motion for summary affirmance, the response thereto, and the reply, it is

ORDERED that the motion for summary affirmance be denied. The merits of the parties' positions are not so clear as to warrant summary action. See Taxpayers Watchdog, Inc. v. Stanley, 819 F.2d 294, 297 (D.C. Cir. 1987) (per curiam).

Because the court has determined that summary disposition is not in order, the Clerk is instructed to calendar this case for presentation to a merits panel.

Per Curiam

ATTACHMENT “H”

MIME-Version:1.0
From:cmeautosender@flsd.uscourts.gov
To:flsd_cmecf_notice
Message-Id:<13708008@flsd.uscourts.gov>
Subject:Activity in Case 9:06-cr-80171-DTKH USA v. Varela et al Order on Motion to Appoint Counsel
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U.S. District Court

Southern District of Florida

Notice of Electronic Filing

The following transaction was entered on 4/8/2015 at 4:43 PM EDT and filed on 4/8/2015

Case Name: USA v. Varela et al

Case Number: [9:06-cr-80171-DTKH](#)

Filer:

Document Number: 1148(No document attached)

Docket Text:

ORDER granting Defendant (3) Daniel Troya's [1147] motion for the appointment of counsel for all post-conviction proceedings to vacate or set aside his conviction and sentence pursuant to 28 U.S.C. 2255. Defendant Troya is indigent and, accordingly, Steven H. Malone, Esq., is appointed to serve as lead counsel, and the Federal Public Defender for the Middle District of Florida in the person of D. Todd Doss, Esq., is appointed to serve as co-counsel in any and all available post-conviction relief proceedings. Signed by Judge Daniel T. K. Hurley on 4/8/2015. (DTKH)

9:06-cr-80171-DTKH-3 Notice has been electronically mailed to:

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