

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

October Term 2024

ELDON GALE SAMUEL, III,
Petitioner,

v.

TEREMA CARLIN,
Respondent.

*On Petition for a Writ of Certiorari
to the United States Court of Appeals for the Ninth Circuit*

MOTION TO PROCEED IN FORMA PAUPERIS

Craig H. Durham
FERGUSON DURHAM, PLLC
223 N. 6th Street, Suite 325
Boise, Idaho, 83702
T: (208) 724-2617
F: (208) 906-8663
chd@fergusondurham.com

Counsel for Petitioner

Petitioner Eldon Gale Samuel, III, asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed in forma pauperis. Petitioner was previously found to be indigent when the undersigned counsel was appointed per the Criminal Justice Act, 18 U.S.C. § 3006A(a)(2)(B), in the Court of Appeals for the Ninth Circuit. *See Attached.*

/s/ Craig H. Durham
CRAIG H. DURHAM
Counsel of Record

FERGUSON DURHAM, PLLC
223 N. 6th Street, Suite 325
Boise, Idaho, 83702
(208) 724-2617
chd@fergusondurham.com

FILED

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JAN 31 2024

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

ELDON GALE SAMUEL III,

No. 23-35408

Petitioner-Appellant,

D.C. No. 2:20-cv-00545-REP

v.

District of Idaho,
Boise

TEREMA CARLIN,

ORDER

Respondent-Appellee.

Before: WARDLAW and H.A. THOMAS, Circuit Judges.

The request for a certificate of appealability (Docket Entry No. 2) is granted with respect to the following issues: (1) whether appellant knowingly, voluntarily, and intelligently waived his *Miranda* rights; and (2) whether appellant's statements to police were voluntarily made under the Fourteenth Amendment. *See* 28 U.S.C. § 2253(c)(3); *see also* 9th Cir. R. 22-1(e).

Appellant is granted leave to proceed in forma pauperis based on the application attached to his motion for appointment of counsel at Docket Entry No. 4. The Clerk will update the docket accordingly.

Appellant's motion for appointment of counsel under the Criminal Justice Act (Docket Entry Nos. 3 and 4) is granted. *See* 18 U.S.C. § 3006A(a)(2)(B); *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983). The Clerk will add to the

docket Craig Durham, Esq., 223 N. 6th Street, Suite 325, Boise, Idaho 83702, 208-724-2617, chd@fergusondurham.com as counsel of record.

The opening brief is due April 30, 2024; the answering brief is due May 30, 2024; the optional reply brief is due within 21 days after service of the answering brief.

Counsel in this case may access the state lodged documents by logging into Appellate ECF and then choosing Reports > PACER Report.

The Clerk will serve on appellant a copy of the “After Opening a Case - counseled Cases” document.

If Terma Carlin is no longer the appropriate appellee in this case, counsel for appellee must notify this court by letter of the appropriate substitute party within 21 days of the filing date of this order. *See* Fed. R. App. P. 43(c).