

No. _____

**IN THE
SUPREME COURT OF THE UNITED STATES**

**GERALD P. MITCHELL,
Petitioner,**

vs.

**STATE OF WISCONSIN,
Respondent.**

**ON PETITION FOR A WRIT OF CERTIORARI
TO THE WISCONSIN SUPREME COURT**

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

Petitioner, Gerald P. Mitchell, by attorneys Andrew R. Hinkel and Thomas B. Aquino, respectfully moves the court to enter an order permitting him to proceed *in forma pauperis*. As grounds for, and in support of his motion, petitioner states as follows:

1. Mr. Mitchell is without funds to prosecute this action, and has been found by the State of Wisconsin to be indigent for the purposes of all trial and appellate proceedings in this matter.

2. Pursuant to Chapter 977 of the Wisconsin Statutes, Mr. Mitchell has been represented and continues to be represented in this matter by counsel provided by the Office of the Wisconsin State

Public Defender. The Office of the Wisconsin State Public Defender is responsible for determining which criminal defendants are indigent and thus entitled to appointed counsel for representation of criminal defendants in the Wisconsin state courts. Wis. Stat. §§ 977.06, 977.07.

3. Mr. Mitchell was appointed counsel through the Office of the Wisconsin State Public Defender for representation in the Wisconsin state courts. He has also been appointed counsel through the Office of the Wisconsin State Public Defender for representation in this petition for certiorari.

4. Undersigned counsel are full-time employees of the Office of the Wisconsin State Public Defender.

5. Pursuant to United States Supreme Court Rule 39.1, Mr. Mitchell has not attached a declaration or affidavit in support of this motion. Instead, he has attached the Orders Appointing Counsel reflecting that he was appointed counsel in the state court below. Specifically, Mr. Mitchell has attached the order appointing Attorney Hinkel to represent him in this petition for certiorari, as well as the order appointing Linda Schaefer to represent him in the Supreme Court of Wisconsin.

WHEREFORE, for all the reasons herein, petitioner respectfully requests that he be permitted to proceed *in forma pauperis* in this action.

Dated this 1st day of October, 2018.

Counsel for Petitioner:

ANDREW R. HINKEL
Assistant State Public Defender

/S/ Thomas B. Aquino

By: Thomas B. Aquino (#296392)
Assistant State Public Defender
Counsel of record

Office of the Wisconsin State
Public Defender
P.O. Box 7862
Madison, WI 53707-7862
Phone: 608.266.3440

Attachment: Orders Appointing Counsel

ORDER APPOINTING COUNSEL

Client's Full Name:	Gerald Mitchell	Client ID:	MAP1294731
Address:	New Lisbon Correctional Institution PO Box 4000, 2000 Progress Lane New Lisbon, WI 53950 4000	SPD ID:	185901561Z
		File No:	18S-59-A-F01561
		Case Group #:	1753778
		Date of Birth:	11/29/1963
		DOC #:	523096

Statutes:

Nature of Case: 346.63(1)(a) Operating While Intoxicated 1 Cnts:
346.63(1)(b) Operating while Intoxicated - BAC .1%+ MU 1 Cnts:

County and Court:	Sheboygan	Case No:	
Other Information:	Judge: Bourke, Terence		13-CF-365
	Record Created: August 8, 2018		
	Judgment Entered: February 28, 2014		
	Type: Re-Opening: U.S. Supreme Court		

IN ACCORDANCE WITH CHAPTER 977 OF THE WISCONSIN STATUTES, I HEREBY APPOINT THE FOLLOWING ATTORNEY TO REPRESENT THE ABOVE NAMED INDIVIDUAL IN RELATION TO THE ABOVE ENTITLED PROCEEDINGS.

Attorney's Name:	Andrew R Hinkel	Local Counsel	
Address:	PO Box 7862 Madison, WI 53707 7862	SPD Office Handling:	Madison
		Appointed By:	Joseph N. Ehmann
State Bar No:	1058128	Dated:	October 1, 2018
Phone Number:	(608) 266-3440		

Office of the State Public Defender - Notice to Clients - File Retention Policy

When an attorney represents an individual, s/he makes and keeps a file of the documents and work done on the case. Attorneys on staff with the Office of the State Public Defender (SPD) create and maintain such files for each case. This notice applies only to cases handled by staff attorneys of the Office of the State Public Defender. If your case has been assigned to a private attorney, please consult that attorney about his or her file retention policy.

Upon the conclusion of the representation in this case, the SPD will, upon your request, deliver the original file or any portion requested, to you, along with any of our original documents or other property that the SPD has in its possession.

If you do not request your file, the SPD will retain it for a period of at least five years after the matter is closed. At any point during this period, you may request delivery of the file. If you do not request the file before the end of the five-year period, the SPD may, in its discretion, destroy the file and its contents without further notice to you.

ORDER APPOINTING COUNSEL

Client's Full Name:	Gerald Mitchell	Client ID:	MAP1294731
Address:	New Lisbon Correctional Institution PO Box 4000, 2000 Progress Lane New Lisbon, WI 53950 4000	SPD ID:	145901432Z
		File No:	14P-59-A-G01432
		Case Group #:	1753778
		Date of Birth:	11/29/1963
		DOC #:	523096

Statutes:

Nature of Case: 346.63(1)(a) Operating While Intoxicated 1 Cnts:
346.63(1)(b) Operating while Intoxicated - BAC .1%+ MU 1 Cnts:

County and Court:	Sheboygan	Case No:	
Other Information:	Judge: Bourke, Terence		13-CF-365
	Record Created: August 6, 2014		
	Judgment Entered: February 28, 2014		
	Type: Felony: Jury Trial - 1 day		

IN ACCORDANCE WITH CHAPTER 977 OF THE WISCONSIN STATUTES, I HEREBY APPOINT THE FOLLOWING ATTORNEY TO REPRESENT THE ABOVE NAMED INDIVIDUAL IN RELATION TO THE ABOVE ENTITLED PROCEEDINGS.

Attorney's Name:	Linda J Schaefer	Local Counsel
Address:	242 Michigan St Ste 1 Sturgeon Bay, WI 54235 2548	SPD Office Handling: Madison
		Appointed By: Joseph N. Ehmann
State Bar No:	1062975	Dated: October 1, 2018
Phone Number:	(920) 746-3180	

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