

No. 19-1414

IN THE
Supreme Court of the United States

UNITED STATES OF AMERICA,
Petitioner,

v.

JOSHUA JAMES COOLEY,
Respondent.

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

MOTION FOR APPOINTMENT OF COUNSEL

JEFFREY T. GREEN
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Counsel for Respondent

March 10, 2021

* Counsel of Record

MOTION FOR APPOINTMENT OF COUNSEL

Respondent Joshua James Cooley hereby moves, pursuant to 18 U.S.C § 3006A and Supreme Court Rule 39.6 and 39.7, for appointment of Eric R. Henkel as his counsel in this matter. In support of this motion, Respondent supplies the following information:

1. This Court granted the government’s petition for a writ of certiorari and Respondent’s motion to proceed *in forma pauperis* on November 20, 2020.

2. Respondent was represented by counsel appointed under the Criminal Justice Act, 18 U.S.C. § 3006A (b) and (c) (the “C.J.A.”), both in the United States District Court for the District of Montana and on appeal to the United States Court of Appeals for the Ninth Circuit. Pursuant to 18 U.S.C. § 3006A(c), once counsel was appointed, Respondent was entitled to representation “at every stage of the proceedings from his initial appearance ... through appeal, including ancillary matters appropriate to the proceedings.”

3. Pursuant to the C.J.A., Mr. Henkel was appointed as Respondent’s counsel by the Ninth Circuit on March 20, 2018, after Respondent’s prior C.J.A. counsel withdrew from representation.

4. Following his appointment, Mr. Henkel prepared for oral argument in the court of appeals, and, on May 14, 2018, he argued this case before a three-judge panel in the Ninth Circuit. Following the panel’s favorable decision on March 21, 2019, Mr. Henkel drafted the brief opposing the government’s petition for rehearing *en banc*.

5. Following the Ninth Circuit's order denying rehearing *en banc*, the government petitioned this Court for a writ of certiorari, and Mr. Henkel continued his C.J.A. representation of Respondent throughout the certiorari phase, which included preparation of the brief opposing the government's petition.

6. Mr. Henkel's representation of Respondent has now continued throughout the merits phase, including preparation of Respondent's merits brief and preparation for oral argument.

7. Mr. Henkel has been Respondent's lead counsel for the past three years and has remained in frequent contact with Respondent throughout that time. Mr. Henkel has received pro bono assistance from the Federal Defenders of Montana and the Northwestern Supreme Court Practicum during the certiorari and merits phases, but he has remained lead counsel for Respondent at all times, and he is willing and committed to remain as such through the conclusion of these proceedings. Mr. Henkel is very familiar with the record and issues in this case, and he is well prepared to argue on Respondent's behalf before this Court on March 23, 2021.

8. Mr. Henkel is well qualified to undertake this representation. He has been in private practice in Montana since 2011 and has devoted a great deal of time within his practice to representing defendants in federal proceedings under C.J.A. appointments. He has been a member in good standing of the State Bar of Montana since 2011, and he is duly admitted and qualified to practice

as an attorney in the Supreme Court of the United States, the United States Court of Appeals for the Ninth Circuit, the United States District Court for the District of Montana, the United States District Court for the District of North Dakota, and all courts of the State of Montana.

CONCLUSION

For the foregoing reasons, Respondent Joshua James Cooley respectfully requests that this Court appoint Eric R. Henkel as his counsel in this case.

Respectfully Submitted,



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