

No. 19-766

IN THE SUPREME COURT OF THE UNITED STATES

STATE OF NORTH CAROLINA,

Petitioner,

-v-

JAMES HAROLD COURTNEY, III,

Respondent.

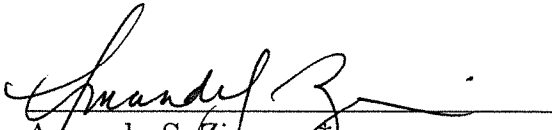
**ON PETITION FOR A WRIT OF CERTIORARI
TO THE SUPREME COURT OF NORTH CAROLINA**

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

Respondent, James Harold Courtney, III, by and through undersigned counsel, asks leave to file the attached Brief in Opposition without prepayment of fees and costs, and to proceed *in forma pauperis*, pursuant to Rule 39 of the Rules of this Court.

Pursuant to N.C. Gen. Stat. § 7A-451, the courts below appointed trial and appellate counsel for Mr. Courtney, who is indigent. The Appellate Entries order indicating Mr. Courtney's indigency and appointing appellate counsel is attached as Exhibit A.

Respectfully submitted this 19th day of March, 2020.



Amanda S. Zimmer*
Assistant Appellate Defender
Amanda.S.Zimmer@nccourts.org

GLENN GERDING
Appellate Defender
Glenn.Gerding@nccourts.org
Office of the Appellate Defender
123 West Main Street, Suite 500
Durham, North Carolina 27701
(919) 354-7210

*Counsel of Record

EXHIBIT A

STATE OF NORTH CAROLINA		File No. 15CRS213392	
WAKE County		Additional File No.(s)	
In The General Court Of Justice <input type="checkbox"/> District <input checked="" type="checkbox"/> Superior Court Division			
STATE VERSUS		APPELLATE ENTRIES	
Name Of Defendant COURTNEY, JAMES, HAROLD, III		Rules 7, 9, 11, and 27 of the N.C. Rules of Appellate Procedure	
Date(s) Of Trial 10/31/2016 THROUGH 11/09/2016		Name And Address Of Defendant's Trial Counsel EDD ROBERTS III P.O. BOX 1608 RALEIGH NC 27602	
Codefendant(s) If Tried Jointly		Telephone No. Email Address 919-782-8115	
Name And Address Of Trial Prosecutor BOZ ZELLINGER/CHASSIDY HINTON P.O. BOX 351 RALEIGH NC 27602		Name And Address Of Defendant's Trial Counsel KARL KNUDSEN P.O. BOX 2386 RALEIGH NC 27602	
Telephone No. 919-792-5000	Email Address	Telephone No. Email Address 919-828-5566	
Name And Address Of Trial Transcriptionist GUGIG, SUSAN (10/15/2015, 1/14/2016) P.O. BOX 351 RALEIGH NC 27602		Name And Address Of Defendant's Appellate Counsel <input checked="" type="checkbox"/> The Appellate Defender (919) 354-7210 123 W. Main Street, Suite 500, Durham, NC 27701 NOTE: All indigent appeals are assigned to the Appellate Defender. <input type="checkbox"/> Retained Appellate Counsel	
Telephone No. 919-792-5200	Email Address	Telephone No. Email Address	
Name And Address Of Transcriptionist GINA MACCHIO (3/10/2016, 5/5/2016, 7/25/2016) P.O. BOX 351 RALEIGH NC 27602		Name And Address Of Transcriptionist Of Other Proceedings On The Following Date(s) SHARON KROEGER P.O. BOX 351 RALEIGH NC 27602	
Telephone No. 919-792-5200	Email Address	Telephone No. Email Address	
Name And Address Of Transcriptionist Of Other Proceedings On The Following Date(s) SUSAN BURGESS P.O. BOX 351 RALEIGH NC 27602		Name And Address Of Transcriptionist Of Other Proceedings On The Following Date(s) SHARON KROEGER P.O. BOX 351 RALEIGH NC 27602	
Date(s) 08/11/2016	Telephone No. 919-792-5200	Date(s) 10/10/2016	Telephone No. 919-792-5200
Email Address		Email Address	

JUDGE'S INITIAL APPEAL ENTRIES

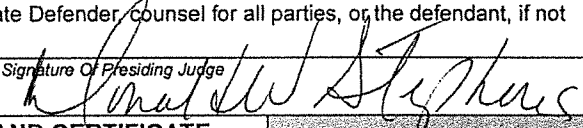
1. a. The defendant has given Notice of Appeal to the N.C. Court of Appeals, or
 b. This is a capital case appealable as of right to the N.C. Supreme Court.
2. Release of the defendant pursuant to G.S. 15A-536 is denied. allowed upon execution of a secured bond in the amount of \$ _____ and compliance with the following additional conditions:

3. Unless indigent, the defendant shall arrange for the transcription of the proceedings as provided in the Rules of Appellate Procedure.
4. (NOTE: Check in all cases where defendant is indigent.) The defendant is indigent and has requested a transcript and the appointment of counsel. It is ORDERED that the defendant is allowed to appeal as an indigent and:
 - a. The Office of Indigent Defense Services shall pay the costs of producing a transcript, and of reproducing the record and the defendant's brief.
 - b. The Appellate Defender is appointed to perfect the defendant's appeal or assign other appellate counsel pursuant to rules issued by the Office of Indigent Defense Services.
 - c. Upon request, the Clerk shall furnish to the Appellate Defender, or to alternate counsel designated by the Appellate Defender, a copy of the complete trial division file in the case and, upon request, any documentary exhibits.
 - d. Unless the parties stipulate that parts of the proceedings shall not be transcribed, the Clerk shall order from the transcriptionist(s) a transcript of all parts of the proceedings except:

JUDGE'S INITIAL APPEAL ENTRIES (continued)

5. If a transcript has been ordered, the defendant in a non-capitally tried case shall serve a proposed record on appeal on the State within 35 days after the reporter's or transcriptionist's certification of delivery of the transcript. If a transcript has been ordered, the defendant in a capitally tried case shall serve a proposed record on appeal on the State within 70 days after the reporter's or transcriptionist's certification of delivery of the transcript. If no transcript has been ordered, the defendant shall serve a proposed record on appeal on the State within 35 days after filing notice of appeal.
6. The State shall serve its amendments, objections or proposed alternative record on appeal on the defendant within 30 days if this is a non-capital case or 35 days if this is a capital case, after service upon it of the defendant's proposed record on appeal.
7. The indigent defendant does not read or speak the English language, but reads and/or speaks his or her native language of _____ . The Court therefore authorizes the services of a language translator or interpreter during the pendency of the appeal for the purposes of (1) written translation of attorney-client correspondence, assignments of error in the settled record on appeal, appellate briefs filed by the defendant and the State, and appellate opinion(s), and/or (2) verbal interpretation of attorney-client communication at each critical stage of the appellate proceedings.

The Court further Orders that a language translator or interpreter with the necessary knowledge, skill, experience, training and education to perform the above services shall be selected and paid by the Administrative Office of the Courts.
8. The Clerk shall deliver a copy of these Appellate Entries to the Appellate Defender, Counsel for all parties, or the defendant, if not represented by counsel.

Date	Name Of Presiding Judge (type or print)	Signature Of Presiding Judge
11/09/2016	DONALD W. STEPHENS	

CLERK'S TRANSCRIPT ORDER AND CERTIFICATE

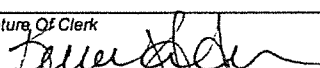
(NOTE: To be completed ONLY when defendant is indigent.)

To The Transcriptionist(s) Named On The Reverse:

Prepare and deliver to the parties a transcript of all portions of the proceedings in the above-captioned case except:
(Specify any portions of the proceedings which need not be transcribed pursuant to a stipulation filed by the parties under Rule 7(a)(2), or pursuant to No. 4. d. on reverse side.)

I certify that I delivered a copy of this Transcript Order to the transcriptionist(s) on the date shown below:

- personally.
 by mailing it to the transcriptionist(s) at the address(es) shown on the reverse.

Date Clerk's Transcript Order Entered And Filed	Date Order Delivered To Transcriptionist(s), If Different
11/09/2016	11/09/2016
Name Of Clerk (type or print)	Signature Of Clerk
KIMBERLY ASHWORTH	
	<input checked="" type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court

EXTENSION OF TIME TO PREPARE TRANSCRIPT OR SERVE RECORD

1. **Extension of time to file transcript:** Pursuant to Rule 7, N.C. Rules of Appellate Procedure, upon motion of the appellant and for good cause shown, the Court finds that this is a criminal case that did not result in a sentence of death and it is ORDERED that the time for preparation of the transcript is extended for 30 days.
2. **Extension of time to serve proposed record on appeal:** Pursuant to Rules 11 and 27, N.C. Rules of Appellate Procedure, upon motion of the appellant and for good cause shown, it is ORDERED that the time for service of the proposed record on appeal is extended for 30 days.

NOTE: The trial court may grant only one extension of time to serve the proposed record on appeal. Any additional motion for an extension of time to serve the proposed record on appeal must be made to the appellate court where the appeal is to be heard. In a case in which a sentence of death was not entered, the trial court may grant one motion for an extension of time to prepare the transcript. Any subsequent motions for an extension of time to prepare the transcript must be made to the appellate court where the appeal is to be heard. In capitally tried cases that resulted in the imposition of the death penalty, motions for an extension of time to prepare the transcript must be made directly to the Supreme Court. Rules 7 and 27, N.C. Rules of Appellate Procedure.

Date	Name Of Judge (type or print)	Signature Of Judge

CERTIFICATION

I certify this Appellate Entries form is a true and complete copy of the original on file in this case.

Date	Signature And Seal	<input checked="" type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court
11-9-16		

Material opposite unmarked squares is to be disregarded as surplusage.