

No.

In the Supreme Court of the United States

FRANKLIN RAFAEL LOPEZ TOALA,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

BRIAN P. BATTAGLIA
Counsel of Record
BLEAKLEY BAVOL DENMAN
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Counsel for Petitioner

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

Petitioner, Franklin Rafael Lopez Toala, by and through his undersigned counsel and pursuant to Supreme Court Rules 21 and 39, 39.1, respectfully moves and requests leave to file his petition for a Writ of Certiorari without prepayment or payment of costs and to proceed *in forma pauperis*, and in support of this motion, Petitioner states as follows:

1. Petitioner is filing a petition for a writ of certiorari to the United States Court of Appeals for the Eleventh Circuit, seeking review of the Eleventh Circuit's opinion affirming Petitioner's sentence.

2. Petitioner was previously found financially unable to obtain counsel and the undersigned was appointed to represent Petitioner pursuant to Title 18 U.S.C. Section 3006A.

3. The Petitioner was also previously granted leave to proceed *in forma pauperis* in the United States Court of Appeals for the Eleventh Circuit.

4. A copy of the order and also letter from the Eleventh Circuit appointing undersigned counsel to represent Petitioner pursuant to the Criminal Justice Act of 1964, 18 U.S.C. § 3006A, is attached hereto.

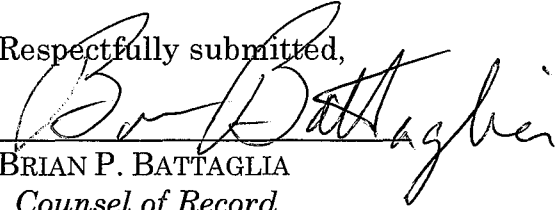
5. Counsel for Petitioner intends to represent the Petitioner in all proceedings in this Court.

6. Therefore in reliance upon Rule 39, 39.1 and Title 18 U.S.C. Section 3006A, Petitioner has not attached the affidavit which would otherwise be required by law, including Title 28 U.S.C. Section 1746.

WHEREFORE, the undersigned respectfully requests the Court grant Petitioner's motion for leave to proceed *in forma pauperis*.

August 20th, 2020

Respectfully submitted,

A handwritten signature in black ink, appearing to read "B. Battaglia", is written over a horizontal line.

BRIAN P. BATTAGLIA

Counsel of Record

BLEAKLEY BAVOL DENMAN & GRACE

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Counsel for Petitioner

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

For rules and forms visit
www.ca11.uscourts.gov

April 10, 2019

Brian P. Battaglia
Battaglia Ross Dicus & McQuaid, PA
5858 CENTRAL AVE STE A
ST PETERSBURG, FL 33707

Appeal Number: 19-11335-J
Case Style: USA v. Franklin Lopez Toala
District Court Docket No: 8:18-cr-00511-SDM-JSS-2

Party To Be Represented: Franklin Rafael Lopez Toala

Dear Counsel:

We are pleased to advise that you have been appointed to represent on appeal the indigent litigant named above. This work is comparable to work performed pro bono publico. The fee you will receive likely will be less than your customary one due to limitations on the hourly rate of compensation contained in the Criminal Justice Act (18 U.S.C. § 3006A), and consideration of the factors contained in Addendum Four § (g)(1) of the Eleventh Circuit Rules.

Supporting documentation and a link to the CJA eVoucher application are available on the internet at <http://www.ca11.uscourts.gov/attorney-info/criminal-justice-act>. **For questions concerning CJA eVoucher please contact our CJA Team by email at cja_evoucher@ca11.uscourts.gov or phone 404-335-6167.** For all other questions, please call the "Reply To" number shown below.

Every motion, petition, brief, answer, response and reply filed must contain a Certificate of Interested Persons and Corporate Disclosure Statement (CIP). Appellants/Petitioners must file a CIP within 14 days after the date the case or appeal is docketed in this court; Appellees/Respondents/Intervenors/Other Parties must file a CIP within 28 days after the case or appeal is docketed in this court, regardless of whether appellants/petitioners have filed a CIP. See FRAP 26.1 and 11th Cir. R. 26.1-1.

On the same day a party or amicus curiae first files its paper or e-filed CIP, that filer must also complete the court's web-based CIP at the Web-Based CIP link on the court's website. Pro se

filers (except attorneys appearing in particular cases as pro se parties) are **not required or authorized** to complete the web-based CIP.

Within fourteen (14) days from this date, you must file a Transcript Information Form, as required by Fed.R.App.P. 10(b)(1); a Transcript Information Form is available from the district court clerk. Appellant is required to file and serve copies of the form in accordance with the instructions included on the form.

Your claim for compensation under the Act should be submitted within 60 days after issuance of mandate or filing of a certiorari petition. We request that you enclose with your completed CJA Voucher one additional copy of each brief, petition for rehearing, and certiorari petition which you have filed. Please ensure that your voucher includes a detailed description of the work you performed. Thank you for accepting this appointment under the Criminal Justice Act.

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Davina C. Burney-Smith, J
Phone #: (404) 335-6183

CJA-1 Appointment of Counsel Letter

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 8:18-cr-00511-T-23JSS

FRANKLIN RAFAEL LOPEZ TOALA

ORDER APPOINTING CJA COUNSEL FOR APPEAL

This matter is before the Court on referral from District Judge Steven Merryday regarding appointment of counsel for appeal. Because the above-named Defendant has testified under oath or has satisfied the Court that he is financially unable to employ counsel, and does not wish to waive counsel, and because the interests of justice so require, it is hereby

ORDERED that Brian P. Battaglia, Esq., 15170 N. Florida Avenue, Tampa, Florida 33613, (813) 221-3759 (Telephone), is appointed to represent the Defendant in this case as to appellate proceedings only.

DONE AND ORDERED in Tampa, Florida on April 19, 2019.

JULIE S. SNEED
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:

Counsel of Record

Brian P. Battaglia, Esq., 15170 N. Florida Avenue, Tampa, Florida 33613

U.S. Court of Appeal, Eleventh Circuit

Defendant c/o US Marshal