

No. \_\_\_\_

**In The  
Supreme Court of the United States**

BENJAMIN CARPENTER,

*Petitioner,*

v.

UNITED STATES OF AMERICA,

*Respondent.*

**MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS**

The Petitioner, by his undersigned counsel, asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

Petitioner's affidavit or declaration is **not** attached because the court below appointed counsel in the current proceeding. The appointment was made under the the Criminal Justice Act, 18 U.S.C. § 3006A(b) A copy of the order of appointment is appended.

  
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(copy)

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 v. ) No. 3:21-CR-38-KAC-DCP  
 )  
 BENJAMIN ALAN CARPENTER, )  
 )  
 Defendant. )

**ORDER**

All pretrial motions in this case have been referred to the undersigned pursuant to 28 U.S.C. § 636(b) for disposition or recommendation. This case is before the Court on Defendant's *pro se* Motion to Appoint Trial Counsel [Doc. 85], filed on June 15, 2022. On August 11, 2021, the undersigned found Defendant Carpenter knowingly and voluntarily waived his right to counsel and granted Defendant's request to represent himself [Doc. 38]. The Court appointed elbow counsel to assist Defendant, and on November 4, 2021, substituted Attorney Wade V. Davies as Defendant's elbow counsel [Doc. 53]. Defendant now asks the Court to appoint his court-appointed elbow counsel, Mr. Davies, to serve as his counsel of record going forward. The Court has previously determined Defendant qualifies for court-appointed counsel [Doc. 7]. The Government filed a response on June 23, 2022, stating it does not object to Defendant's request to have Attorney Davies appointed as counsel [Doc. 86].

The Court finds Defendant's motion is unopposed, well taken, and does not affect the trial or schedule in this case. Defendant informs the Court that he no longer wishes to represent himself and, instead, desires to have his current elbow counsel, Mr. Davies, appointed to represent him going forward. The Court finds Defendant is waiving his right to represent himself and asserting

his right to counsel. Accordingly, the Motion to Appoint Trial Counsel [**Doc. 85**] is **GRANTED**, and Attorney Davies is **APPOINTED** as counsel of record for Defendant Carpenter. Mr. Davies's appointment is deemed effective as of the date of Defendant's Motion, on June 15, 2022. The Clerk of Court is **DIRECTED** to add Mr. Davies as counsel of record in this case.

**IT IS SO ORDERED.**

ENTER, *nunc pro tunc* to June 15, 2022:



Debra C. Poplin  
United States Magistrate Judge