

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
Case No. 23-60173-CR-WILLIAMS/GRAHAM

UNITED STATES OF AMERICA

vs.

CAROLYN DENISE WADE and
TRACY D. WADE

Defendants.

ORDER

THIS CAUSE came before the Court on Defendant Carolyn Denise Wade's Motion Pursuant to Federal Rule of Appellate Procedure 24 to Proceed in Forma Pauperis on Appeal. (ECF No. 240).

Defendant Carolyn Denise Wade ("Ms. Wade") seeks, pursuant to Federal Rule of Appellate Procedure 24(a)(1), to be declared indigent for appellate purposes, including the filing fee and transcription of necessary proceedings including the trial. (ECF No. 240). According to her motion, Ms. Wade and her husband and co-defendant, Tracy D. Wade, retained counsel to file their respective appeals. Counsel represents that Mr. and Ms. Wade are "in different financial situations and Mr. Wade is not seeking to proceed in forma pauperis. *Id.* Specifically, Ms. Wade has "minimal income from part-time employment...significant debts, including a mortgage balance of approximately \$585,000 and credit card debt of approximately \$44,000... no excess disposable income" and her living expenses are met through assistance from Mr. Wade. *Id.* Additionally, Ms. Wade's legal fees in this case, including for appellate counsel, have been paid by Mr. Wade, not Ms. Wade. *Id.*

Further, counsel asserts that, “on appeal Ms. Wade expects to raise issues related to the sufficiency of the evidence that she personally or knowingly committed the crimes charged, and potentially other issues to be identified by [] counsel after reviewing the transcripts and other records in this case.” *Id.* In support of her motion, Ms. Wade attached a Financial Affidavit which complies with 28 U.S.C. § 1746 and Federal Rule of Appellate Procedure 24(a)(1). (ECF No. 241-1).

Applications to appeal in forma pauperis are governed by 28 U.S.C. § 1915 and Federal Rule of Appellate Procedure 24. A federal court may authorize a party to proceed in forma pauperis upon an affidavit of indigency. 28 U.S.C. § 1915(a); see Fed. R. App. P. 24(a)(1). Specifically, Rule 24 requires the party to state the issues that the party intends to present on appeal, an entitlement to redress, and show their inability to pay or to give security for fees and costs. Fed. R. App. P. 24(a)(1).

While Ms. Wade has not sufficiently identified the issues she intends to argue on appeal, as is required; see *McKinsey v. Cain*, 2011 WL 2945812 (E.D. La. July 15, 2011)(denying petitioner IFP status where the “motion and notice of appeal contain no indication of the issues that [petitioner] intend[ed] to present on appeal”); *Smith v. Sch. Bd. of Brevard Cty.*, 2010 WL 2026071 (M.D. Fla. May 20, 2010)(denying petition to proceed IFP because motion and notice of appeal failed to identify legal issues petitioner would advance on appeal), Ms. Wade has made a sufficient showing that her appeal is taken in good faith. However, Ms. Wade fails to show her inability to pay or to give security for fees and costs.

While Ms. Wade’s financial affidavit reflects monthly expenses of \$2,400 for credit cards and \$300 for groceries, resulting in \$0 in her bank account after monthly expenses, her Presentence

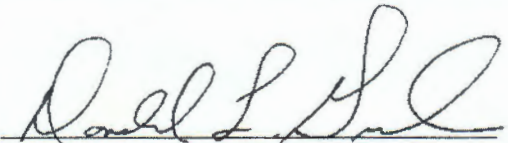
Investigation Report ("PSR") states a total net worth of \$83,490. Additionally, her husband and co-defendant, is responsible for her monthly living expenses, including the mortgage and credit card payments. As such, the Court does not consider these expenses in determining Ms. Wade's indigency and ability to pay the filing fee. The Court therefore finds that Ms. Wade's monthly income of \$1,200 from her part-time employment is sufficient to cover the required \$600.00 filing fee.

Moreover, because co-defendant Mr. Wade is not indigent and is represented by the same counsel for appeal, Ms. Wade will have access to the trial transcript once it is ordered by Mr. Wade.

Accordingly, it is hereby

ORDERED AND ADJUDGED that Defendant Carolyn Denise Wade's Motion Pursuant to Federal Rule of Appellate Procedure 24 to Proceed in Forma Pauperis on Appeal (ECF No. 240) is **DENIED**.

DONE AND ORDERED in Chambers at Miami, Florida, this 27th day of March 2025.


DONALD L. GRAHAM
UNITED STATES DISTRICT JUDGE

cc: All parties