

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
BIG STONE GAP DIVISION**

<b>UNITED STATES OF AMERICA</b>	)	
	)	
	)	Case No. 2:10CR00002-004
	)	
v.	)	<b>OPINION AND ORDER</b>
	)	
<b>STEVEN F. RIGGS, II,</b>	)	By: James P. Jones
	)	United States District Judge
	)	
Defendant.	)	

*Steven F. Riggs, II, Pro Se.*

Steven F. Riggs, II, has filed a pro se Motion for Appointment of Counsel, requesting this court to appoint counsel to prepare for him a petition for certiorari to be filed in the Supreme Court, the judgment imposed by this court having recently been affirmed by the court of appeals. *United States v. Riggs*, No. 11-4943, 2012 WL 3538875 (4th Cir. Aug. 17, 2012) (unpublished).

There is no federal constitutional right to counsel on a petition for certiorari. *See Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987) (no constitutional right to counsel in discretionary appeals or habeas proceedings; “the right to appointed counsel extends to the first appeal of right, and no further”); *Wainwright v. Torna*, 455 U.S. 586, 587–88 (1982) (no constitutional right to counsel when pursuing discretionary review by state supreme court); *Ross v. Moffitt*, 417 U.S. 600, 610–16

(1974) (no constitutional right to counsel for discretionary appeals or certiorari petitions).

The authority of this court to appoint counsel for an indigent person extends only through appeal. *See* 18 U.S.C.A. § 3006A(c) (West Supp. 2012). But even assuming that this court had the authority to appoint counsel to prepare a petition for certiorari, I would decline to do so, in light of my knowledge of the merits of the case and the court of appeals' decision.

I note that the Plan of the United States Court of Appeals for the Fourth Circuit for the Implementation of the Criminal Justice Act requires appellate counsel, whether appointed or retained, to prepare and file a timely petition for a writ of certiorari if requested by the client, unless counsel is allowed to withdraw by the court of appeals or the Supreme Court. Plan ¶ V(2).

For these reasons, it is **ORDERED** that the Motion for Appointment of Counsel (ECF No. 482) is **DENIED**. The clerk shall send a copy of this Order to the defendant and to Timothy W. McAfee, Esquire.

ENTER: October 29, 2012

/s/ James P. Jones  
United States District Judge