

FILED

UNITED STATES COURT OF APPEALS

AUG 31 2010

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

<p>RAYVAUGHN ROYCE EMBRY,</p> <p style="text-align: center;">Petitioner - Appellant,</p> <p style="text-align: center;">v.</p> <p>G. J. GUIRBINO,</p> <p style="text-align: center;">Respondent - Appellee.</p>

No. 09-15981

D.C. No. 1:04-cv-06101-AWI-JMD
Eastern District of California,
Fresno

ORDER

Before: HAWKINS, Circuit Judge.

The request for a certificate of appealability is granted with respect to the following issue: whether the trial court violated appellant’s constitutional right against self-incrimination and right to counsel by admitting the transcript of a police interview. 28 U.S.C. § 2253(c)(3); *see also* 9th Cir. R. 22-1(e).

The court sua sponte appoints counsel for this appeal. Counsel will be appointed by separate order. If appellant does not wish to have appointed counsel, appellant shall file a motion asking to proceed pro se within 14 days of the date of this order.

The Clerk shall electronically serve this order on the appointing authority for the Eastern District of California, who will locate appointed counsel. The district court shall send notification of the name, address, and telephone number of

appointed counsel to the Clerk of this court at

counselappointments@ca9.uscourts.gov within 14 days of locating counsel.

The opening brief and excerpts of record are due November 15, 2010; the answering brief is due December 15, 2010; and the optional reply brief is due within 14 days after service of the answering brief.

If G. J. Guirbino is no longer the appropriate appellee in this case, counsel for appellee is directed to file a motion to substitute party within 21 days of the filing date of this order. *See* Fed. R. App. P. 43(c).