

No. 17-1274  
\*CAPITAL CASE\*

IN THE  
SUPREME COURT OF THE UNITED STATES

Charles L. Ryan — PETITIONER  
(Your Name)

VS.

Robert Allen Poyson — RESPONDENT(S)

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The petitioner asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

Please check the appropriate boxes:

☒ Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s):

United States District Court for the District of Arizona

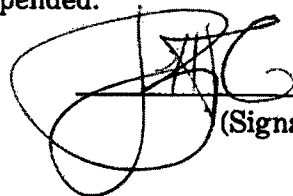
☐ Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

☐ Petitioner's affidavit or declaration in support of this motion is attached hereto.

☒ Petitioner's affidavit or declaration is **not** attached because the court below appointed counsel in the current proceeding, and:

☒ The appointment was made under the following provision of law: 21 U.S.C. Section 848(q)(4)(B), or

☒ a copy of the order of appointment is appended.

  
(Signature)

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MAR 29 2004	
CLERK U S DISTRICT COURT DISTRICT OF ARIZONA	
BY _____	DEPUTY

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Robert Allen Poyson,  
Petitioner,

vs.

Dora Schriro, et al.,  
Respondents.

No. CV 04-534-PHX-CKJ

DEATH PENALTY CASE

**ORDER OF APPOINTMENT  
AND GENERAL PROCEDURES**

**IT IS ORDERED** granting Petitioner's Application for Appointment of Counsel and appointing Fredric F. Kay, Federal Public Defender, District of Arizona, as Counsel for Petitioner in his federal habeas corpus proceedings. The Federal Public Defender is authorized to designate an Assistant Federal Public Defender to handle the case. Appointment is made pursuant to 21 U.S.C. § 848(q)(4)(B).

**IT IS FURTHER ORDERED** that the designated Assistant Federal Public Defender file a notice of appearance with the Court within 10 days from the entry of this Order.

**IT IS FURTHER ORDERED** granting Petitioner's application to proceed *in forma pauperis*.

**IT IS FURTHER ORDERED** that the Arizona Attorney General file a notice of appearance with the Court within 10 days from the entry of this Order.

**IT IS FURTHER ORDERED** that, in addition to the requirement of Local Rule 1.9(f), the parties shall file with the Clerk of Court an additional copy of every pleading or

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1 other document filed from this date forward for use by the Capital Case Staff Attorney. The  
2 notation "Capital Case Staff Attorney Copy" shall be clearly marked on the first page of such  
3 copy.

4 **IT IS FURTHER ORDERED** that the following procedures shall govern the briefing  
5 and resolution of this matter:

6 I. Case Management Conference

7 A case management conference will be held on **Monday, May 10, 2004, at 10:30 AM**  
8 **in Courtroom 503, Sandra Day O'Connor United States Courthouse, 401 W.**  
9 **Washington, Phoenix.** Non-local counsel may, if requested, appear by telephone. Any  
10 request to appear by telephone must be filed at least ten (10) days prior to the scheduled  
11 conference. Prior to the conference, Petitioner's counsel is expected to meet with Petitioner  
12 and to review any published case decisions. Counsel is further expected to contact  
13 Petitioner's state court counsel to obtain information about the case, to assemble the files and  
14 records from the state proceedings, and begin review of the record. Absent a motion  
15 detailing significant delays, problems or obstacles encountered in obtaining copies of  
16 pertinent files and records, the Court will not assist directly in obtaining such materials. Also  
17 prior to the conference, counsel for both parties are expected to confer regarding a proposed  
18 briefing schedule in this matter.

19 At the conference, Petitioner's counsel will be expected to discuss the status of file  
20 and record assembly and review, any problems encountered in this regard, and whether  
21 assistance regarding the state court record is needed from Respondents. Both parties should  
22 be prepared to articulate their positions regarding the statute of limitations, to discuss any  
23 other issues which may affect the filing of the Amended Petition or efficient resolution of  
24 this matter, and to propose a briefing schedule.

25 Following the conference, the Court will issue a Case Management Order setting firm  
26 deadlines for the filing of the Amended Petition, responsive pleadings, motions for further  
27 evidentiary development, and other pleadings as the Court may deem necessary.

1           II.    Amended Petition

2           The Amended Petition shall include and set forth all known claims of constitutional  
3 error or deprivation entitling Petitioner to federal habeas relief. See Rule 2(c), 28 U.S.C. foll.

4 § 2254. In addition to the requirement of Local Rule 1.9, the Amended Petition shall:

- 5           (1)   separately enumerate *every* claim for federal habeas relief (related claims such  
6               as ineffective assistance of counsel may be separately enumerated as sub-  
7               claims);  
8           (2)   include a table of contents;  
9           (3)   state with specificity the facts and legal authority supporting each claim;  
10          (4)   state with specificity whether, when and where each claim was presented to or  
11               considered by the state's highest court;  
12          (5)   include, in any appendices, a table of contents and tabs between exhibits; and  
13          (6)   not contain, as exhibits or otherwise, significant portions of the state court  
14               record (i.e., copies of transcripts);<sup>1</sup>

15           III.   Answer

16           After the Amended Petition is filed, Respondents shall file an Answer. Pursuant to  
17 Rule 5 of the Rules Governing Section 2254 Cases, Respondents' Answer shall specifically  
18 respond to the allegations of the petition. The Court intends the Answer to be a  
19 comprehensive responsive pleading, addressing both the factual allegations and legal  
20 contentions raised in the Amended Petition as well as any procedural defenses with respect  
21 to individual claims. Accordingly, Respondents shall address the merits of every enumerated  
22 claim and sub-claim, regardless of whether Respondents allege the claim is barred from  
23 review by the federal court. In addition, Respondents' Answer shall include a table of  
24 contents.

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25           <sup>1</sup>       Following the filing of the Amended Petition, the Court will, on its own  
26 motion, seek a certified copy of the state court record from the Arizona Supreme Court,  
27 which includes trial, appeal and post-conviction pleadings as well as transcripts.  
28 Accordingly, the parties may cite to appropriate state court documents in their pleadings but  
should not reproduce such documents as exhibits.

1 IV. Traverse

2 Petitioner will be given an opportunity to file a Traverse in reply to Respondents'  
3 Answer. The filing of a Traverse is optional. If a Traverse is filed, it shall include a table  
4 of contents.

5 V. Evidentiary Development

6 Following the filing of the Amended Petition, Answer and Traverse (if any), Petitioner  
7 shall file any requests for further evidentiary development of a claim. Such motions include,  
8 but are not limited to, requests for Discovery, Expansion of the Record and Evidentiary  
9 Hearing under Rules 6, 7 and 8 of the Rules Governing Section 2254 Cases. Any motion for  
10 evidentiary development shall:

- 11 (1) separately identify which enumerated claim(s) and sub-claim(s) Petitioner  
12 contends need further factual development;
- 13 (2) with respect to each claim or sub-claim identified in #1, (i) identify with  
14 specificity the facts sought to be developed; (ii) identify the specific exhibit(s)  
15 or evidence Petitioner contends demonstrate or support the existence of each  
16 fact sought to be developed; and (iii) explain why such fact(s), exhibit(s) and  
17 evidence are relevant with respect to each claim or sub-claim; and
- 18 (3) with respect to each claim or sub-claim identified in #1, explain in complete  
19 detail: (1) why such claim or sub-claim sought to be developed was not  
20 developed in state court; and (2) why the failure to develop the claim in state  
21 court was not the result of lack of diligence, in accordance with the Supreme  
22 Court's decision in Williams v. Taylor, 529 U.S. 420 (2000).

23 Any motion for an evidentiary hearing shall further address, with respect to each claim  
24 or sub-claim identified in #1:

- 25 (4) what material facts Petitioner contends are in dispute;
- 26 (5) how the factual allegations, if proved, would entitle Petitioner to relief; and
- 27 (6) whether the state court trier of fact reliably found the relevant facts after a full  
28 and fair hearing. See Jones v. Wood, 114 F.3d 1002, 1010 (9th Cir. 1997).

Any motion for evidentiary development that is filed prior to the filing of  
Respondents' Answer or that fails to address the above-listed requirements will be summarily  
denied. If a motion is filed, a response or reply thereto, if any, shall be filed in accordance  
with Local Rule 1.10(c) and (d), respectively.

VI. Miscellaneous

In addition to the requirements of Local Rule 1.9, the following shall apply to any pleading filed in this matter:

(1) The parties shall not include photographs, charts or graphs in the body of any pleading. Any such exhibit must be contained within an appendix to an appropriate pleading (i.e., a motion for evidentiary development).

(2) The parties shall not refer to either party by informal first name only. All references to a party shall be by last name, by governmental name (i.e., "State") or by formal title, such as "Petitioner" or "Respondents."

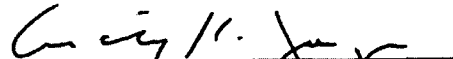
**IT IS FURTHER ORDERED** that this case, having been randomly reassigned, by lot, to Judge James A. Teilborg, pursuant to Rule 1.2(f) of the Local Rules of Practice, shall be redesignated as No. CV-04-534-PHX-JAT.

**IT IS FURTHER ORDERED** that the Clerk of Court forward a copy of the Petition for Writ of Habeas Corpus, the Order Staying Execution, and this Order to Petitioner's counsel.

**IT IS FURTHER ORDERED** that a copy of the Petition for Writ of Habeas Corpus and this Order be served by the Clerk of Court upon Respondents Dora Schriro and Charles Goldsmith and upon Kent Cattani, Assistant Arizona Attorney General, by certified mail pursuant to Rule 4, Rules Governing Section 2254 Cases.

**IT IS FURTHER ORDERED** that the Clerk of Court forward a copy of this Order to Petitioner Robert Allen Poyson, ADOC # 140419, P.O. Box 3400, Florence, AZ 85232.

DATED this 25<sup>th</sup> day of March, 2004.

  
CINDY K. JORGENSEN  
United States District Judge