

No. \_\_\_\_\_

IN THE SUPREME COURT OF THE UNITED STATES

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Joseph C. Garcia,  
Petitioner,

vs.

Lorie Davis, Director,  
Texas Department of Criminal Justice, Correctional Institutions Division,  
Respondent.

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On Petition for Writ of Certiorari to the  
United States Court of Appeals for the Fifth Circuit

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MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

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*Counsel for Petitioner Garcia*

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Pursuant to Supreme Court Rule 39, Petitioner Joseph C. Garcia hereby moves for leave to proceed *in forma pauperis* in the above-captioned action on the ground that he lacks sufficient funds to pay for fees and expenses. Mr. Garcia is incarcerated at the Texas Department of Criminal Justice's Polunsky Unit in Livingston, Texas. He previously sought and was granted leave to proceed *in forma pauperis* in the United States District Court for the Northern District of Texas. The district court appointed counsel for Mr. Garcia by order dated January 26, 2007, and the court appointed current counsel for Mr. Garcia by order dated November

23, 2015. Copies of both appointment orders are included in the appendix to this motion.

Respectfully submitted: February 20, 2018.

JON M. SANDS  
Federal Public Defender

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*Counsel of Record*  
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s/ Karen S. Smith  
*Counsel for Petitioner Garcia*

## APPENDIX

1. Order, *Garcia v. Quarterman*, 3:06-CV-2185-M (N.D. Tex. Jan. 26, 2007)
2. Order Substituting Counsel, *Garcia v. Stephens*, 3:06-CV-2185-M (N.D. Tex. Nov. 23, 2015)

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

<b>JOSEPH C. GARCIA,</b>	)	
<b>Petitioner,</b>	)	
	)	
<b>v.</b>	)	<b>3:06-CV-2185-M</b>
	)	<b>ECF</b>
<b>NATHANIEL QUARTERMAN,</b>	)	
<b>Director, Texas Department of</b>	)	
<b>Criminal Justice, Correctional</b>	)	
<b>Institutions Division,</b>	)	
<b>Respondent.</b>	)	

**ORDER**

On November 27, 2006, Richard E. Langlois, State Appointed Counsel, filed a Motion for Appointment of Other Counsel to represent the petitioner in this case.

Having reviewed the motion to appoint counsel and his affidavit in support of his indigence filed on December 11, 2006, the Court finds that Petitioner is entitled to the appointment of counsel by the provisions of 21 U.S.C. § 848(q)(4)(B). *See McFarland v. Scott*, 512 U.S. 849, 855-58, 114 S.Ct. 2568, 2572-73, 129 L.Ed.2d 666 (1994). The Court further finds that Camille Knight, Esq., possesses the background, knowledge, and experience to enable her to represent Petitioner with due consideration to the seriousness of the possible penalty and the unique and complex nature of the litigation, and is qualified to accept this appointment as lead counsel. Upon proper motion, the Court will entertain the appointment of counsel to assist lead counsel appointed herein.

IT IS, THEREFORE, ORDERED that the Motion for Appointment of Other Counsel (Docket #1) is GRANTED and that **Camille Knight** is APPOINTED as lead counsel to represent Joseph C. Garcia in this cause. Counsel is entitled to compensation in accordance with Volume VII, Chapter II, of the Guide to Judicial Policies and Procedures, which Counsel is

directed to read along with the instructions for form CJA 30 in order to ensure proper compensation for time and expenses incurred herein. Appointed counsel should also promptly contact Petitioner, investigate this matter, and determine the time for filing any petition for habeas corpus relief in accordance with 28 U.S.C. §§ 2244(d) and 2254.

A copy of this Order along with CJA 30 forms shall be provided to appointed counsel at the following address: Camille M. Knight, Law Office of Camille M. Knight, P.O. Box 831418, Richardson, TX 75083-1418, 214/498-5259, Fax 214/764-0022.

SIGNED this 25<sup>th</sup> day of January, 2007.

A handwritten signature in cursive script, appearing to read "Paul D. Stickney", written in black ink. The signature is positioned above a horizontal line.

PAUL D. STICKNEY  
UNITED STATES MAGISTRATE JUDGE

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

JOSEPH C. GARCIA,	§	
Petitioner,	§	
	§	
V.	§	Civil Action No. 3:06-CV-2185-M
	§	
WILLIAM STEPHENS, Director,	§	(Death Penalty Case)
Texas Department of Criminal Justice	§	
Correctional Institutions Division,	§	
Respondent.	§	

**ORDER SUBSTITUTING COUNSEL**

On November 23, 2015, the Federal Public Defender for the Northern District of Texas filed a motion to withdraw and substitute the Federal Public Defender for the District of Arizona as counsel of record for petitioner Joseph C. Garcia. (Motion, doc. 131.) The certificate of conference states that the respondent has not responded to contact attempts. (Mot. at 4.)

In light of the extremely short time remaining to file a notice of appeal in this case, the Court must act before a response to the motion is due. The motion indicates that the Federal Public Defender for the District of Arizona has a capital habeas unit that is willing and able to provide the needed representation for Garcia and has followed all necessary procedures for doing so. (Mot. at 2-3.) The motion also indicates that Garcia has been consulted and is fully in favor of this change in representation. (Mot. at 3.) In light of these circumstances indicating the cooperation that has already been obtained in achieving an orderly substitution of counsel, the Court finds that the motion is proper and should be granted.

The motion to withdraw and substitute counsel (doc. 131) is **GRANTED**; the Federal Public Defender for the Northern District of Texas is **GRANTED** leave to withdraw and is discharged from

the representation of Garcia in these proceedings, and the Federal Public Defender for the District of Arizona is **SUBSTITUTED** as appointed counsel for Garcia in this case.

**SO ORDERED.**

DATED November 23, 2015.

A handwritten signature in black ink, appearing to read "Paul D. Stickney", written over a horizontal line.

PAUL D. STICKNEY  
UNITED STATES MAGISTRATE JUDGE