

No. _____

OCTOBER TERM, 2018
IN THE SUPREME COURT OF THE UNITED STATES

ROBERT LEE MCCONELL, Petitioner,

v.

WILLIAM GITTERE, Warden, et al., Respondent.

On Petition for Writ of Certiorari to the
Supreme Court of the State of Nevada

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

CAPITAL CASE

RENE L. VALLADARES
Federal Public Defender of Nevada
DAVID ANTHONY
Counsel of Record
Assistant Federal Public Defender
411 E. Bonneville, Ste. 250
Las Vegas, Nevada 89101
(702) 388-6577
(702) 388-5819 (Fax)
David_Anthony@fd.org

Counsel for Petitioner

Pursuant to Supreme Court Rule 39.1, Petitioner Robert Lee McConnell requests leave to file the attached Petition for Writ of Certiorari without prepayment of costs and to proceed *in forma pauperis*. McConnell has been granted leave to do so in the following state and federal courts: United States District Court, District of Nevada, for federal habeas corpus proceedings, March 18, 2010, Case No. 3:10-cv-0021-GMN-WGC, Ex. 1; Second Judicial District Court, Reno, Nevada, June 16, 2005, Case No. CR02P-1938, Ex. 2. In addition, McConnell attaches his Affidavit or Declaration in Support of Motion for Leave to Proceed *In Forma Pauperis* as Ex. 3.

Dated this 16th day of May 2019.

Respectfully submitted,

/s/ David Anthony
DAVID ANTHONY
Assistant Federal Public Defender

EXHIBIT 1

EXHIBIT 1

SEARCHED	INDEXED
SERIALIZED	FILED
MARCH 18 2010	
CLERK'S OFFICE, U.S. DISTRICT COURT	
DISTRICT OF NEVADA	
RE:	DEPUTY

MAR 18 2010
CLERK'S OFFICE, U.S. DISTRICT COURT
DISTRICT OF NEVADA
RE: DEPUTY

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

9 ROBERT McCONNELL,)
10 Petitioner,) 3:10-cv-0021-RCJ-RAM
11 vs.)
12 E.K. McDANIEL, *et al.*,) ORDER
13 Respondents.)
14 /

16 In this habeas corpus action, the petitioner, Robert McConnell, a Nevada prisoner under
17 sentence of death, filed a *pro se* habeas corpus petition (docket #1) on January 13, 2010.

18 McConnell has now filed a complete application for leave to proceed *in forma pauperis*
19 (docket #12). In light of the information provided in that application, the court will grant McConnell
20 *in forma pauperis* status. McConnell has paid the \$5 filing fee for this action.

21 The court will not waive that payment of the filing fee, but will grant petitioner leave to proceed
22 *in forma pauperis* with respect to subsequent fees and costs.

23 McConnell also filed a motion for appointment of counsel (docket #13). McConnell's
24 application for leave to proceed *in forma pauperis* shows that he lacks the resources necessary to
25 employ counsel to prosecute this capital habeas corpus action. Therefore, pursuant to 18 U.S.C.
26 § 3599, and in the interests of justice, the Federal Public Defender for the District of Nevada (FPD)

1 shall be appointed to represent McConnell. If the FPD is unable to represent McConnell, due to a
2 conflict of interest or other reason, then alternate counsel will be located and appointed by the court.
3 McConnell's appointed counsel will represent him in all subsequent proceedings, pursuant to
4 18 U.S.C. § 3599(e), unless and until allowed to withdraw.

5 **IT IS THEREFORE ORDERED** that petitioner's Application for Leave to Proceed
6 *in Forma Pauperis* (docket #12) is **GRANTED IN PART AND DENIED IN PART**. The
7 Application for Leave to Proceed *in Forma Pauperis* is **DENIED** with respect to waiver of payment
8 of the filing fee, but **GRANTED** with respect to subsequent fees and costs.

9 **IT IS FURTHER ORDERED** that petitioner's Motion for Appointment of Counsel
10 (docket #13) is **GRANTED**. The Federal Public Defender for the District of Nevada is appointed to
11 represent petitioner. The Federal Public Defender shall have **30 days** from the date of entry of this
12 order to undertake representation of petitioner, by filing a notice of appearance of counsel, or to file
13 a notice indicating its inability to represent petitioner in these proceedings.

14 **IT IS FURTHER ORDERED** that the Clerk of the Court shall also **SERVE** a copy of this
15 order on:

16 Robert E. Wieland
17 Bureau of Criminal Justice
18 5420 Kietzke Lane, Suite 202
19 Reno, NV 89511

20 and

21 David S. Anthony
22 Office of the Federal Public Defender
23 411 E Bonneville, Suite 250
24 Las Vegas, NV 89101

25
26 Dated this 18 day of March 2010.

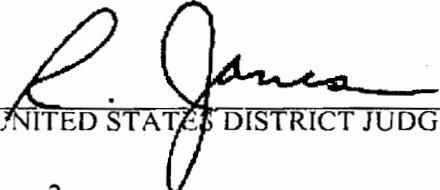

F. Jones
UNITED STATES DISTRICT JUDGE

EXHIBIT 2

EXHIBIT 2

1 3035

ORIGINAL FILED

2 JUN 16 2005

3 RONALD A. LONGSTAD JR. CLERK
4 BY: *gillessey* DEPUTY

5 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
6 IN AND FOR THE COUNTY OF WASHOE

7
8 THE STATE OF NEVADA,

9 Plaintiff,

Case No. CR02P-1938

10 vs.

11 Dept. No. 8

12
13 ROBERT LEE MCCONNELL,

14 Defendant.
15 /

16
17 ORDER

18 Having read Petitioner ROBERT LEE MCCONNELL's "Motion for Leave to
19 Proceed on Appeal in Forma Pauperis" and his "Affidavit in Support of Motion to Proceed
20 in Forma Pauperis," which were attached to Petitioner's Petition for Writ of Habeas Corpus
21 (Post-Conviction), this Court finds that Petitioner is filing for propria persona on appeal.
22 Petitioner has previously demonstrated his inability to pay the costs of defending his claims
23 in this matter, as he has been previously represented himself as a pro per defendant.

24 IT IS HEREBY ORDERED, pursuant to NRS 12.015, Petitioner's Motion to
25 Proceed in Forma Pauperis is GRANTED.

26 IT IS HEREBY ORDERED that the Court allow said ROBERT LEE
27 MCCONNELL to bring such action without costs and file or issue any necessary writ,
28 process, pleading or paper without charge.

IT IS FURTHER ORDERED that the Sheriff or any other appropriate officer

1 within the state make personal service of any necessary writ, process, pleading or paper
2 without charge for ROBERT LEE MCCONNELL.

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Dated this 15th day of June, 2005.

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JEROME M. POLAHA
CHIEF DISTRICT JUDGE

CERTIFICATE OF MAILING

I hereby certify that I am an employee of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe; that on the 16 day of June, 2005, I deposited for mailing a copy of the foregoing to:

**Robert Lee McConnell
Inmate # 75899
Nevada State Prison
P. O. Box 607
Carson City, NV 89702**



John W. Hall

EXHIBIT 3

EXHIBIT 3

**AFFIDAVIT OR DECLARATION
IN SUPPORT OF MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS***

I, Robert Lee McConnell, am the petitioner in the above-entitled case. In support of my motion to proceed *in forma pauperis*, I state that because of my poverty I am unable to pay the costs of this case or to give security therefor; and I believe I am entitled to redress.

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Self-employment	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Income from real property (such as rental income)	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Interest and dividends	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Gifts	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Alimony	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Child Support	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Disability (such as social security, insurance payments)	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Unemployment payments	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Public-assistance (such as welfare)	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Other (specify): _____	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Total monthly income:	\$ <u>-0-</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>

2. List your employment history for the past two years, most recent first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
N/A			\$
			\$
			\$

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
N/A			\$
			\$
			\$

4. How much cash do you and your spouse have? \$ N/A
Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Type of account (e.g., checking or savings) N/A	Amount you have \$ N/A	Amount your spouse has \$ N/A
	\$	\$
	\$	\$
	\$	\$

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

Home Value N/A Other real estate Value N/A

Motor Vehicle #1
Year, make & model _____
Value N/A _____

Motor Vehicle #2
Year, make & model _____
Value N/A _____

Other assets
Description _____
Value N/A

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
<u>NONE</u>	\$ <u>NONE</u>	\$ <u>NONE</u>
	\$ _____	\$ _____
	\$ _____	\$ _____

7. State the persons who rely on you or your spouse for support. For minor children, list initials instead of names (e.g. "J.S." instead of "John Smith").

Name	Relationship	Age
<u>NONE</u>	<u>NONE</u>	_____
	_____	_____
	_____	_____

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, or annually to show the monthly rate.

	You	Your spouse
Rent or home-mortgage payment (include lot rented for mobile home)	\$ <u>N/A</u>	\$ <u>N/A</u>
Are real estate taxes included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Is property insurance included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ <u>N/A</u>	\$ <u>N/A</u>
Home maintenance (repairs and upkeep)	\$ <u>N/A</u>	\$ <u>N/A</u>
Food	\$ <u>N/A</u>	\$ <u>N/A</u>
Clothing	\$ <u>N/A</u>	\$ <u>N/A</u>
Laundry and dry-cleaning	\$ <u>N/A</u>	\$ <u>N/A</u>
Medical and dental expenses	\$ <u>N/A</u>	\$ <u>N/A</u>

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ <u>N/A</u>	\$ <u>N/A</u>
Recreation, entertainment, newspapers, magazines, etc.	\$ <u>-0-</u>	\$ <u>N/A</u>
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ <u>N/A</u>	\$ <u>N/A</u>
Life	\$ <u>N/A</u>	\$ <u>N/A</u>
Health	\$ <u>N/A</u>	\$ <u>N/A</u>
Motor Vehicle	\$ <u>N/A</u>	\$ <u>N/A</u>
Other: _____	\$ <u>N/A</u>	\$ <u>N/A</u>
Taxes (not deducted from wages or included in mortgage payments)		
(specify): _____	\$ <u>N/A</u>	\$ <u>N/A</u>
Installment payments		
Motor Vehicle	\$ <u>N/A</u>	\$ <u>N/A</u>
Credit card(s)	\$ <u>N/A</u>	\$ <u>N/A</u>
Department store(s)	\$ <u>N/A</u>	\$ <u>N/A</u>
Other: _____	\$ <u>N/A</u>	\$ <u>N/A</u>
Alimony, maintenance, and support paid to others	\$ <u>N/A</u>	\$ <u>N/A</u>
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ <u>N/A</u>	\$ <u>N/A</u>
Other (specify): _____	\$ <u>N/A</u>	\$ <u>N/A</u>
Total monthly expenses:	\$ <u>-0-</u>	\$ <u>N/A</u>

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

Yes No If yes, describe on an attached sheet.

10. Have you paid – or will you be paying – an attorney any money for services in connection with this case, including the completion of this form? Yes No

If yes, how much? _____

If yes, state the attorney's name, address, and telephone number:

11. Have you paid—or will you be paying—anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

Yes No

If yes, how much? _____

If yes, state the person's name, address, and telephone number:

12. Provide any other information that will help explain why you cannot pay the costs of this case.

Incarcerated.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: Thu. March 28th, 2019

Robert Lee McConnell
(Signature)