

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

DAVID KEEN,

Petitioner,

VS.

RICKY BELL, Warden, Riverbend
Maximum Security Institution,

Respondent .

No. 07-02099-SHM-dkv

ORDER GRANTING MOTION TO PROCEED IN FORMA PAUPERIS
ORDER GRANTING APPLICATION FOR APPOINTMENT OF COUNSEL
AND
ORDER APPOINTING COUNSEL

Petitioner David Keen, an inmate under sentence of death at the Riverbend Maximum Security Institution ("RMSI") in Nashville, Tennessee, has filed a pro se petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254, along with an Application For Appointment Of Counsel To Investigate, Prepare, And File Amended Petition For Writ Of Habeas Corpus In Capital Case ("Application for Appointment of Counsel") and a Motion to Proceed In Forma Pauperis.

In connection with his in forma pauperis motion, Petitioner has, pursuant to 28 U.S.C. § 1915, submitted an affidavit of indigency and a current copy of his inmate trust account statement. Based on the information provided in connection with the motion, it appears that Petitioner is unable to prepay the habeas corpus

filing fee. Accordingly, Petitioner's Motion to Proceed In Forma Pauperis is GRANTED.

Regarding Petitioner's Application for Appointment of Counsel, Petitioner informs the Court that he has spoken with Assistant Federal Public Defenders for the Middle District of Tennessee Kelley Henry and Gretchen Swift and that those attorneys consent to their appointment in this matter. Attorneys from the Federal Public Defender's Office for the Middle District of Tennessee are routinely appointed to represent capital habeas petitioners in this district. Eighteen U.S.C. § 3599(a)(2) reads as follows:

In any post conviction proceeding under section 2254 or 2255 of title 28, United States Code, seeking to vacate or set aside a death sentence, any defendant who is or becomes financially unable to obtain adequate representation or investigative, expert, or other reasonably necessary services shall be entitled to the appointment of one or more attorneys and the furnishing of such other services in accordance with subsections (b) through (f).

The materials submitted in conjunction with Petitioner's Motion to Proceed In Forma Pauperis demonstrate that he is "financially unable to obtain adequate representation." Accordingly, Petitioner's Application for the Appointment of Counsel is GRANTED.

It is ORDERED that Kelley Henry, Assistant Federal Public Defender for the Middle District of Tennessee, is appointed counsel for Petitioner pursuant to 18 U.S.C. § 3599.

IT IS SO ORDERED this 23rd day of February, 2007.

s/ SAMUEL H. MAYS, JR.

UNITED STATES DISTRICT JUDGE