

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

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**IN THE**  
**SUPREME COURT OF THE UNITED STATES**

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**SAMUEL HOWARD,**

**Petitioner,**

**v.**

**STATE OF NEVADA**

**Respondent.**

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**On Writ of Certiorari to the  
Supreme Court of the state of Nevada**

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**MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS***

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**Jonah J. Horwitz\***  
**FEDERAL DEFENDER SERVICES OF IDAHO, INC.**  
**702 West Idaho Street, Suite 900**  
**Boise, Idaho 83702**  
**Jonah\_Horwitz@fd.org**  
**208-331-5530**

**\*Counsel of Record**

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Pursuant to Supreme Court Rule 39, Petitioner Samuel Howard asks leave to file the accompanying petition for writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

The Federal Defender Services of Idaho was substituted as counsel for Mr. Howard by the Nevada Supreme Court on November 15, 2012. A copy of the Order Approving Substitution and Granting Motion to Associate Foreign Counsel is attached as Exhibit 1. Mr. Howard was previously represented by the Federal Public Defender of Nevada, who were appointed as counsel for Mr. Howard upon Motion to Proceed *In Forma Pauperis* by the Clark County District Court, State of Nevada on November 6, 2007. A Copy of the District Case Inquiry – Minutes, Case 81-C-053867-C is attached as Exhibit 2. Mr. Howard has also been granted *in forma pauperis* status in an ongoing federal habeas case challenging the same death sentence at issue here. *See Ex. 3.* Federal Defender Services of Idaho represents Mr. Howard in that proceeding as well. *See Ex. 4.*

Respectfully submitted this 11th day of February, 2020.

/s/Jonah J. Horwitz  
Jonah J. Horwitz  
Counsel for Petitioner

*Howard v. State of Nevada*  
Filed in Support of Motion for Leave  
to Proceed *In Forma Pauperis*

# EXHIBIT 1

**(Order Approving Substitution and Granting Motion  
to Associate Foreign Counsel)**

IN THE SUPREME COURT OF THE STATE OF NEVADA

SAMUEL HOWARD,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 57469

**FILED**

NOV 15 2012

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *H. W. Lindeman*  
DEPUTY CLERK

ORDER APPROVING SUBSTITUTION AND  
GRANTING MOTION TO ASSOCIATE FOREIGN COUNSEL

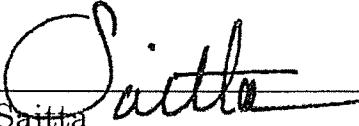
The Nevada Federal Public Defender's Office has filed a substitution of counsel, substituting Nevada attorney Paola M. Armeni and foreign counsel Teresa A. Hampton and Brady Ward King, with the Federal Defender Services of Idaho, as counsel for appellant. The substitution is signed by all attorneys involved and includes an affidavit stating that appellant has been informed of and consents to the substitution. Accordingly, the substitution is approved. See NRAP 46(d)(2).

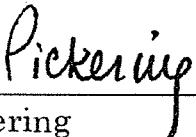
Ms. Armeni also has filed a motion to associate Ms. Hampton and Mr. King as counsel of record for appellant pursuant to SCR 42. See NRAP 46(a)(3). Attached to the motion are verified applications; certificates of good standing from the Idaho State Bar, Oregon State Bar, and Colorado State Bar (for Ms. Hampton) and from the District of Columbia Court of Appeals, Washington State Bar, and Florida State Bar (for Mr. King); and SCR 42 statements. The State Bar's SCR 42 statements indicate that Ms. Hampton and Mr. King have not applied to appear in Nevada courts within the past 3 years. See SCR 42(6)

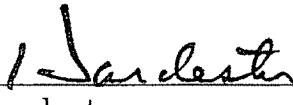
(providing that repeated appearances under Rule 42 may be cause to deny a motion to associate and that more than 5 appearances under the rule in a 3-year period is excessive).

Cause appearing, the motion is granted. Ms. Hampton and Mr. King shall be permitted to appear on behalf of appellant in this appeal. Nevada attorney Paola M. Armeni shall be responsible for all matters presented by appellant in this matter. See SCR 42(14) (providing that active Nevada bar member who is attorney of record shall be present at all matters in open court); NRAP 25€ (providing that all documents submitted to supreme court for filing by a represented party shall include the original signature of at least one attorney of record who is an active member of the State Bar of Nevada).<sup>1</sup>

It is so ORDERED.

  
Saitta, J.

  
\_\_\_\_\_, J.  
Pickering

  
\_\_\_\_\_, J.  
Hardesty

cc: Federal Public Defender/Las Vegas  
Paola M. Armeni  
Federal Defender Services of Idaho  
Attorney General/Carson City  
Clark County District Attorney  
State Bar of Nevada

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<sup>1</sup>We note that the documents submitted to this court do not include an application for waiver of the original and annual renewal fees. See SCR 42(3)(e).

*Howard v. State of Nevada*  
Filed in Support of Motion for Leave  
to Proceed *In Forma Pauperis*

# **EXHIBIT 2**

## **(District Case Inquiry - Minutes)**

# District Case Inquiry - Minutes

[Home](#)[Summary](#)  
[Case Activity](#)  
[Calendar](#)  
[Continuance](#)  
[Minutes](#)[Parties](#)  
[Def. Detail](#)  
[Next Co-Def.](#)  
[Charges](#)  
[Sentencing](#)  
[Bail Bond](#)  
[Judgments](#)[District Case](#)  
[Party Search](#)  
[Corp. Search](#)  
[Atty. Search](#)  
[Bar# Search](#)  
[ID Search](#)[Calendar Day](#)  
[Holidays](#)[Help](#)  
[Comments &](#)  
[Feedback](#)  
[Legal Notice](#)

Case 81-C-053867-C

Just Ct. Case# 80-G-00127

Status REOPENED

**Plaintiff** State of Nevada  
**Defendant** Howard, Samuel  
**Judge** Glass, Jackie**Attorney** Roger, David J.  
**Attorney** Federal Public Defender  
**Dept.** 5

Event 11/06/2007 at 08:30 AM

ALL PENDING MOTIONS 11/6/07

Heard By Glass, Jackie

**Officers** Sandra Jeter/sj, Court Clerk  
Denise Trujillo, Relief Clerk  
Rachelle Hamilton, Reporter/Recorder

<b>Parties</b>	0000 - S1	State of Nevada	Yes
	000145	Becker, Nancy A.	Yes
	0001 - D1	Howard, Samuel	No

Deft. not present and in custody at the Nevada Department of Corrections.

DEFT.'S MOTION FOR APPOINTMENT OF COUNSEL: Ms. Becker advised the Federal Public Defender was previously appointed. COURT ORDERED, deft.'s motion GRANTED; FEDERAL PUBLIC DEFENDER APPOINTED.

DEFT.'S MOTION TO PROCEED IN FORMA PAUPERIS: COURT ORDERED, motion GRANTED.

Court NOTED this was already dismissed in 2003. Ms. Becker requested a Briefing Schedule set on the State's Motion to Dismiss stating this matter went to Federal Court and now deft. is exhausting his remedies. COURT ORDERED, briefing schedule SET as follows: State to file its motion by 2/8/08; deft.'s Response due by 3/7/08 and matter SET for HEARING.

NDC

4/3/08 8:30 AM STATE'S MOTION TO DISMISS ... DEFT.'S PETITION FOR WRIT OF HABEAS CORPUS

**Due to time restraints and individual case loads, the above case record may not reflect all information to date.**

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*Howard v. State of Nevada*  
Filed in Support of Motion for Leave  
to Proceed *In Forma Pauperis*

# **EXHIBIT 3**

**(Order Granting *In Forma Pauperis*)**

ENTERED AND  
SERVED

JAN 13 1994

CLERK, U.S. DISTRICT COURT  
DISTRICT OF NEVADA  
epr DEPUTY

RECEIVED  
JAN 12 1994  
FBI - LAS VEGAS

27

SEARCHED  
INDEXED  
SERIALIZED  
FILED  
JAN 13 1994  
FBI - LAS VEGAS

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

SAMUEL HOWARD,

Petitioner,

vs

E.K. McDANIEL,

Respondents.

) Case No. CV-S-93-1209-LDG(LRL)

) ORDER

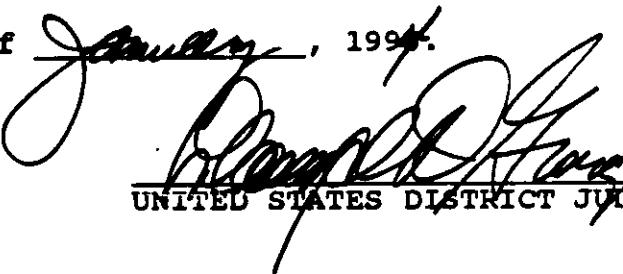
Petitioner has submitted a motion for leave to proceed in forma pauperis and a new petition for writ of habeas corpus. The motion is incomplete in that it fails to include the financial certificate required by this court effective July 1, 1992, for individuals proceeding pro se. Petitioner needs to submit the financial certificate to inmate services to be completed; he will be sent a correct financial certificate to be used. However, the motion for leave to proceed in forma pauperis shall be granted at this time because the financial certificate in this instance is pro forma, since this new action is a continuation of a prior action stayed while Petitioner exhausted an unexhausted issue. See Howard v. Whitley, CV-N-88-264-ECR, and Howard v. Godinez, CV-N-91-196-ECR.

1 Petitioner has submitted with the petition for writ of  
2 habeas corpus a motion for leave to state grounds exceeding the two  
3 additional page limitation. The motion shall be granted and the  
4 petition filed.

5 IT IS, THEREFORE, HEREBY ORDERED that the motion for leave  
6 to proceed in forma pauperis is GRANTED. However, the Clerk of the  
7 Court shall send to Petitioner a copy of the motion for leave to  
8 proceed in forma pauperis form and two copies of this order.  
9 Petitioner shall cause the financial certificate to be completed and  
10 returned to this court within forty-five (45) days and attached to a  
11 copy of this order.

12 IT IS FURTHER ORDERED that Petitioner's motion for leave to  
13 file a petition with more than two additional pages attached is  
14 GRANTED. The Clerk of the Court shall file the petition for a writ  
15 of habeas corpus and serve respondent(s) by certified mail.

16 Dated this 11 day of January, 1994.

17   
18 UNITED STATES DISTRICT JUDGE  
19

*Howard v. State of Nevada*  
Filed in Support of Motion for Leave  
to Proceed *In Forma Pauperis*

# **EXHIBIT 4**

## **(Notice of Attorney Substitution)**

1 Samuel Richard Rubin, ISB No. 5126  
2 Federal Public Defender  
3 Deborah A. Czuba, ID Bar No. 9648  
4 Jonah J. Horwitz, WI Bar No. 1090065  
5 Federal Defender Services of Idaho  
6 Capital Habeas Unit  
7 702 W. Idaho, Suite 900  
8 Boise, Idaho 83702  
9 Telephone: (208) 331-5530  
10 Facsimile: (208) 331-5559  
11 ECF: [Deborah\\_A\\_Czuba@fd.org](mailto:Deborah_A_Czuba@fd.org)  
12 [Jonah\\_Horwitz@fd.org](mailto:Jonah_Horwitz@fd.org)

13 Attorneys for Petitioner, Samuel Howard

14  
15 UNITED STATES DISTRICT COURT  
16 DISTRICT OF NEVADA

17 SAMUEL HOWARD,

18 Case No. 2:93-CV-1209-LRH-VCF

19 Petitioner,

20 vs.  
21 **NOTICE OF ATTORNEY  
22 SUBSTITUTION**

23 RENEE BAKER, *et al.*,

24 (Death Penalty Habeas Corpus Case)

25 Respondents.

26 TO THE CLERK OF THE COURT AND ALL PARTIES OF RECORD:

27 Petitioner Samuel Howard is a Nevada inmate under sentence of death. He has been  
28 challenging his conviction and sentence in state and federal court. On August 10, 2015, the  
Ninth Circuit Court of Appeals issued an order granting a limited remand to this Court in Mr.  
Howard's case. *See Howard v. Baker*, No. 10-99003, Order, Dkt. 96 (9th Cir. Aug. 10, 2015)  
(attached as Exhibit 1).

The Federal Defender Services (FDSI) of Idaho has been representing Mr. Howard in  
state and federal court since 2012. On August 10, 2012, the FDSI was appointed counsel of  
record by the Ninth Circuit in Mr. Howard's appeal from this Court's denial of habeas corpus

1 relief. *See* Dist. Ct. Dkt. 307. This appointment occurred due to a conflict with the Nevada  
2 Federal Public Defender's Office which prevented that office from continuing to represent Mr.  
3 Howard. *Id.*

4  
5 In addition, on November 15, 2012, the Nevada Supreme Court in Mr. Howard's most  
6 recent state post-conviction action issued an order substituting attorneys with the FDSI in for  
7 attorneys with the Nevada Federal Public Defender's Office. *See Howard v. Nevada*, No. 57469,  
8 Order Approving Substitution and Granting Motion to Associate Foreign Counsel (Nevada Sup.  
9 Ct. Nov. 15, 2012) (attached as Exhibit 2).

10  
11 Therefore, Petitioner, Samuel Howard, by and through the Federal Defender Services of  
12 Idaho, respectfully requests that Assistant Federal Public Defenders Deborah A. Czuba and  
13 Jonah J. Horwitz be substituted as counsel in the above-captioned case. They request to receive  
14 notice of all future filings. Their contact information is as follows:

15  
16 Deborah A. Czuba  
17 Jonah J. Horwitz  
18 Federal Defender Services of Idaho  
19 Capital Habeas Unit  
20 702 W. Idaho Street, Suite 900  
21 Boise, ID 83702  
22 PH: 208-331-5530 // FX: 208-331-5559  
23 [Deborah\\_A\\_Czuba@fd.org](mailto:Deborah_A_Czuba@fd.org)  
24 [Jonah\\_Horwitz@fd.org](mailto:Jonah_Horwitz@fd.org)

25 DATED this 13th day of August 2015.

26  
27 /s/ Deborah A. Czuba  
28 Deborah A. Czuba

29  
30 /s/ Jonah J. Horwitz  
31 Jonah J. Horwitz

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on the 13th day of August, 2015, I electronically filed the foregoing  
3 document with the Clerk of the Court using the CM/ECF system which is designed to send a  
4 Notice of Electronic Filing to persons including the following:

5 Heather D. Procter  
6 [hprocter@ag.nv.gov](mailto:hprocter@ag.nv.gov)

7 */s/ Joy L. Fish*

8 Joy L. Fish

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