

No. _____

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

SAMUEL HOWARD,

Petitioner,

v.

STATE OF NEVADA

Respondent.

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

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

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**

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 *[Signature]*
DEPUTY CLERK

ORDER APPROVING SUBSTITUTION AND
GRANTING MOTION TO ASSOCIATE FOREIGN COUNSEL

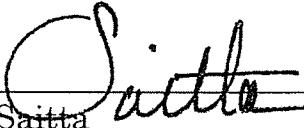
The Nevada Federal Public Defender's Office has filed a substitution of counsel, substituting Nevada attorney Paola M. Armeni and foreign counsel Teresa A. Hampton and Brady Ward King, with the Federal Defender Services of Idaho, as counsel for appellant. The substitution is signed by all attorneys involved 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).

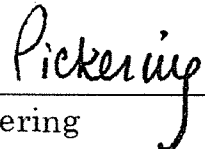
Ms. Armeni also has filed a motion to associate Ms. Hampton and Mr. King as counsel of record for appellant pursuant to SCR 42. See NRAP 46(a)(3). Attached to the motion are verified applications; certificates of good standing from the Idaho State Bar, Oregon State Bar, and Colorado State Bar (for Ms. 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)

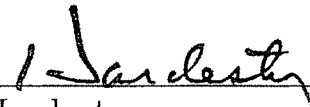
(providing that repeated appearances under Rule 42 may be cause to deny a motion to associate and that more than 5 appearances under the rule in a 3-year period is excessive).

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 25c (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).¹

It is so ORDERED.


Saitta, J.


Pickering, J.


Hardesty, J.

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

¹We 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

Case 81-C-053867-C

Just Ct. Case# 80-G -00127

Status REOPENED

Summary
Case Activity
Calendar
Continuance
Minutes
Parties
Def. Detail
Next Co-Def.
Charges
Sentencing
Bail Bond
Judgments

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

Parties	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
efm DEPUTY

RECEIVED
JAN 12 8 10 AM '94

RECEIVED

efm

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.

2

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 
19 UNITED STATES DISTRICT JUDGE
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Howard v. State of Nevada
Filed in Support of Motion for Leave
to Proceed *In Forma Pauperis*

EXHIBIT 4

(Notice of Attorney Substitution)

Samuel Richard Rubin, ISB No. 5126
Federal Public Defender
Deborah A. Czuba, ID Bar No. 9648
Jonah J. Horwitz, WI Bar No. 1090065
Federal Defender Services of Idaho
Capital Habeas Unit
702 W. Idaho, Suite 900
Boise, Idaho 83702
Telephone: (208) 331-5530
Facsimile: (208) 331-5559
ECF: [Deborah A. Czuba@fd.org](mailto:Deborah_A_Czuba@fd.org)
[Jonah Horwitz@fd.org](mailto:Jonah_Horwitz@fd.org)

Attorneys for Petitioner, Samuel Howard

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

SAMUEL HOWARD,

Petitioner,

vs.

RENEE BAKER, *et al.*,

Respondents.

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

**NOTICE OF ATTORNEY
SUBSTITUTION**

(Death Penalty Habeas Corpus Case)

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

Petitioner Samuel Howard is a Nevada inmate under sentence of death. He has been 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
24 Jonah_Horwitz@fd.org

25
26 DATED this 13th day of August 2015.

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

/s/ Jonah J. Horwitz
Jonah J. Horwitz

CERTIFICATE OF SERVICE

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

Heather D. Procter
hprocter@ag.nv.gov

/s/ Joy L. Fish

Joy L. Fish