

No. _____

OCTOBER TERM, 2019

IN THE SUPREME COURT OF THE UNITED STATES

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ZANE FLOYD, Petitioner,

v.

WILLIAM GITTERE, Warden, et al., Respondent.

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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

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Pursuant to Supreme Court Rule 39.1, Petitioner Floyd Zane requests leave to file the attached Petition for Writ of Certiorari without prepayment of costs and to proceed *in forma pauperis*. Floyd has been granted leave to do so in the United States District Court, District of Nevada, for federal habeas corpus proceedings, April 17, 2006, Case No. 2:06-cv-0471-RFB-CWH, Ex. 1.

Dated this 2nd day of July, 2020.

Respectfully submitted,

/s/ Brad D. Levenson
BRAD D. LEVENSON
Assistant Federal Public Defender

EXHIBIT 1

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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ZANE FLOYD,)	
)	
Petitioner,)	2:06-cv-0471-PMP-LRL
)	
vs.)	
)	ORDER
E.K. McDANIEL, <i>et al.</i> ,)	
)	
Respondents.)	
)	
_____	/	

This action is a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 by Zane Floyd, a Nevada prisoner under sentence of death. Floyd’s *pro se* habeas corpus petition (docket #1) was filed on April 14, 2006. He has paid the \$5 filing fee for this action.

Despite the fact that he paid the \$5 filing fee, Floyd also filed an Application to Proceed *In Forma Pauperis* (docket #4). In view of the financial information Floyd has provided with his application, the court will grant his motion in part and deny it in part. The court will not waive payment of the \$5 filing fee, but will grant petitioner leave to proceed *in forma pauperis* with respect to subsequent fees and costs.

Floyd also filed a Motion for Appointment of Counsel (docket #5). Floyd’s Application to Proceed *In Forma Pauperis* shows that he lacks the resources necessary to employ counsel to prosecute this capital habeas corpus proceeding. Therefore, pursuant to 21 U.S.C. §848(q)(4)(B), in the interest of justice, the Federal Public Defender for the District of Nevada

1 (“FPD”) shall be appointed to represent petitioner. If the FPD is unable to represent petitioner (due
2 to a conflict of interest or any other reason), then alternate counsel for petitioner will be located, and
3 appointed by the court. Petitioner’s appointed counsel will represent him in all future federal
4 proceedings in this court relating to this matter (including subsequent actions) and appeals therefrom,
5 pursuant to 21 U.S.C. §848(q)(8), until allowed to withdraw.

6 **IT IS THEREFORE ORDERED** that petitioner’s Application to Proceed
7 *In Forma Pauperis* (docket #4) is **GRANTED IN PART AND DENIED IN PART**. The
8 Application to Proceed *In Forma Pauperis* is **DENIED** with respect to waiver of payment of the
9 filing fee, but **GRANTED** with respect to subsequent fees and costs.

10 **IT IS FURTHER ORDERED** that petitioner’s Motion for Appointment of Counsel
11 (docket #5) is **GRANTED**. The Federal Public Defender for the District of Nevada is appointed to
12 represent petitioner, and shall have **thirty (30) days** from the date of entry of this Order to undertake
13 representation of petitioner or to indicate to the court its inability to represent petitioner in these
14 proceedings.

15 **IT IS FURTHER ORDERED** that the Clerk of Court shall **SERVE** a copy of this
16 Order on Michael Pescetta, Capital Habeas Division, Office of the Federal Public Defender,
17 411 East Bonneville Ave., Ste. 250, Las Vegas, NV 89101.

18 **IT IS FURTHER ORDERED** that the Clerk shall **SERVE** the respondents, by
19 certified mail, with a copy of this Order and a copy of the habeas corpus petition and accompanying
20 exhibits (docket ## 1/2/3). Respondents’ counsel shall file a Notice of Appearance of Counsel
21 within **thirty (30) days** from the date of entry of this Order, but shall not answer the habeas corpus
22 petition until the court orders otherwise.

23 DATED: April 17, 2006

24 

25 PHILIP M. PRO
26 Chief United States District Judge