

THIS IS A CAPITAL CASE

No. _____

IN THE
Supreme Court of the United States

Timothy Wayne Kemp,
Petitioner

v.

State of Arkansas
Respondent

**On Petition for Certiorari to the
Arkansas Supreme Court**

PETITIONER'S MOTION TO PROCEED IN FORMA PAUPERIS

Petitioner asks to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*. Kemp was first found indigent by the Circuit Court of Pulaski County and counsel was appointed. He subsequently was permitted to proceed *in forma pauperis* by the United States District Court for the Eastern District of Arkansas where the Federal Public Defender was appointed. The Arkansas Supreme Court recognized undersigned as counsel for the Petitioner pursuant to its precedent in *Hill v. State*, 215 S.W.3d 589, 594-95 (2005) and the requirements of Arkansas Rule of Criminal Procedure 37.5. The orders are attached hereto.

January 5, 2022

Respectfully submitted,
LISA G. PETERS
FEDERAL PUBLIC DEFENDER



JULIE VANDIVER

Counsel of Record

Chief, Capital Habeas Unit

Federal Public Defender Office for the
Eastern District of Arkansas

1401 W. Capitol Avenue, Suite 490

Little Rock, AR 72201

(501) 324-6114

Julie_Vandiver@fd.org

Counsel for Petitioner

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS

STATE OF ARKANSAS

PLAINTIFF

DOCKET NUMBER(S)
& CHARGE(S)

DIVISION

93-2903

Cap Murder 1st of

VS

Timothy Kemp

DEFENDANT

AFFIDAVIT OF INDIGENCY AND ORDER APPOINTING COUNSEL

The above named defendant, being first duly sworn, states on oath that he is without funds and unable to employ counsel, and requests the Court to appoint counsel to represent him on the charge(s) set out above, and in regard to his financial status, gives the following answers.

1. Are you presently employed? Yes ☒ No ☐

(a) If the answer is yes, state your salary of wages, and give the name and address of your employer.

(b) If the answer is no, state the date of last employment and the salary/wages which you received.

August 1993 cabinet work \$8.00/hour

2. Have you received within the past 12 months any money from any of the following sources:

(a) Business, profession or any form of self-employment? Yes ☐ No ☒

(b) Rent payments, interest or dividends? Yes ☐ No ☒

(c) Pensions, annuities or life insurance payments? Yes ☐ No ☒

(d) Gifts or inheritances? Yes ☐ No ☒

(e) Any other sources? Yes ☐ No ☒

woked there 28 years.

If the answer to any of the above is yes, describe each source of money and state the amount received from each during the past 12 months

3. Do you own any cash, or do you have money in a checking or savings account? Yes ☐ No ☒

If the answer is yes, state the total amount of each account.

4. Do you own any real estate, stocks, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)?

Yes ☐ No ☒

If the answer is yes, describe the property and state its approximate value.

5. List all debts and expenses you have:

None

6. List the persons who are dependent upon you for support, state your relationship to those persons, and indicate how much you contribute toward their support.

None

A FALSE STATEMENT AS TO FINANCIAL STATUS SHALL BE PUNISHABLE BY A SENTENCE IN THE STATE PENITENTIARY OF NOT LESS THAN THREE (3) NOR MORE THAN TEN (10) YEARS, AND A FINE OF UP TO TEN THOUSAND DOLLARS (\$10,000)

988-4900 (press #)

STATE OF ARKANSAS
COUNTY OF PULASKI

ss.

Subscribed and sworn to before me this

14/2

day

February

19

94

My Commission Expires:

at 1/95

Signature of Defendant

Route 4 7110 Swaggerty

Address

Box 72076

Phone

Notary Public

ORDER

The Court now finds that the defendant is unable to obtain effective representation of counsel without substantial financial hardship to himself or family; therefore, IT IS ORDERED that William R. Simpson, Jr., Public Defender, be and is hereby appointed to represent said defendant before the Court in all matters pertaining to the above referenced charge(s).

Jeff Rosenzweig

Judge

Date

Maria G. Thumher 2/14/94

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

SEP 23 2002

JAMES W. McCORMACK, CLERK
By: [Signature] DEP CLERK

IN RE: TIMOTHY WAYNE KEMP

4:02mc0014

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AMENDED ORDER

Upon application made by letter dated September 17, 2002, and having considered the financial affidavit attached thereto, the Court hereby appoints the Federal Public Defender Office and Sam Heuer as counsel for death-row inmate Timothy Wayne Kemp.¹

IT IS SO ORDERED this 23rd day of September 2002.

[Signature]
CHIEF JUDGE
UNITED STATES DISTRICT COURT

THIS DOCUMENT ENTERED ON
DOCKET SHEET IN COMPLIANCE
WITH RULE 58 AND/OR 79(a) FRCP
ON 9-24-02 BY VT

RECEIVED

SEP 24 2002

FEDERAL PUBLIC DEFENDER

¹ Attorney Jeff Rosenzweig, who previously was appointed as co-counsel for Mr. Kemp, is hereby relieved as counsel in this matter.

STATE OF ARKANSAS,)
) SCT.
SUPREME COURT)

SUPREME COURT CASE NO. CR-95-549 AND CR-98-463

V. APPEAL FROM PULASKI COUNTY CIRCUIT COURT, FIRST DIVISION –
60CR-93-2903

STATE OF ARKANSAS RESPONDENT

MOTION OF JULIE VANDIVER TO BE RECOGNIZED AS COUNSEL ON BEHALF OF PETITIONER IS GRANTED. PETITIONER'S MOTION FOR LEAVE TO FILE OVERLENGTH APPLICATION IS GRANTED.

PETITIONER'S TENDERED APPLICATION TO REINVEST JURISDICTION IN THE CIRCUIT COURT TO CONSIDER A PETITION FOR WRIT OF ERROR CORAM NOBIS; MOTION TO TAKE APPLICATION AS A CASE; AND NOTICE OF FILING SEALED EXHIBITS FILED THIS DATE.

IN TESTIMONY, THAT THE ABOVE IS A TRUE COPY OF THE ORDER OF SAID SUPREME COURT, RENDERED IN THE CASE HEREIN STATED, I, STACEY PECTOL, CLERK OF SAID SUPREME COURT, HEREUNTO SET MY HAND AND AFFIX THE SEAL OF SAID SUPREME COURT, AT MY OFFICE IN THE CITY OF LITTLE ROCK, THIS 23RD DAY OF JULY, 2020.

Ernest Pector

CLERK

BY: _____

DEPUTY CLERK

ORIGINAL TO CLERK

CC: JULIE VANDIVER

DARNISA EVANS JOHNSON, DEPUTY ATTORNEY GENERAL
HON. LEON JOHNSON, CIRCUIT JUDGE