

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

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

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JOSEPH MARTIN DANKS,

*Petitioner,*

*vs.*

RONALD BROOMFIELD,  
Warden of California State Prison at San Quentin,

*Respondent.*

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On Petition for Writ of Certiorari to  
the Court of Appeal for the State of California

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

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*Attorney for Petitioner  
Joseph Martin Danks*

Petitioner Joseph Martin Danks, by and through undersigned counsel, asks leave to file the attached Petition for Writ of Certiorari without prepayment of fees and costs and to proceed *in forma pauperis* pursuant to Rule 39.1 of the Rules of this Court. Petitioner previously has been granted leave to proceed in forma pauperis in habeas corpus proceedings in the California courts, including the proceedings for which certiorari review is being requested, and is represented by counsel in the Eastern District of California under the Criminal Justice Act, 18 U.S.C. § 3006A(b), and 18 U.S.C. § 3599(a)(2). Copies of the courts' orders appointing counsel in the related state and federal habeas corpus proceedings below are attached hereto.

Dated: June 1, 2022

Respectfully submitted,  
HABEAS CORPUS RESOURCE CENTER

By: /s/ **Gary D. Sowards**

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*Attorney for Petitioner  
Joseph Martin Danks*

SUPREME COURT  
**FILED**

DEC - 7 2001

No. S032146

Frederick K. Ohlrich Clerk

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DEPUTY

**IN THE SUPREME COURT OF CALIFORNIA**

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THE PEOPLE, Respondent,

v.

JOSEPH DANKS, Appellant.

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Upon request of appellant for appointment of counsel, the Habeas Corpus Resource Center is hereby appointed to represent appellant Joseph Danks for habeas corpus/executive clemency proceedings related to the above automatic appeal now pending in this court.

GEORGE

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*Chief Justice*

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSEPH MARTIN DANKS, ) Case No. 1:11-cv-00223-LJO  
Petitioner, )  
v. ) DEATH PENALTY CASE  
VINCE CULLEN, Warden of California State ) ORDER GRANTING APPLICATION FOR  
Prison at San Quentin, ) APPOINTMENT OF COUNSEL; DENYING  
Respondent. ) WITHOUT PREJUDICE REQUEST FOR STAY  
 ) OF EXECUTION AND APPLICATION TO  
 ) PROCEED WITHOUT PREPAYMENT OF  
 ) FEES; AND DEFERRING REQUEST FOR  
 ) STATUS CONFERENCE  
 )

On February 9, 2011, Petitioner Joseph Martin Danks (“Danks”), a state prisoner facing capital punishment, commenced this action pursuant to 28 U.S.C. § 2254 by filing an application for appointment of counsel, request for a stay of execution, and request for a status conference. Appended with this filing is an application to proceed without prepayment of fees pursuant to 28 U.S.C. § 1915. The applications and requests are supported by the declaration of Habeas Corpus Resource Center (“HCRC”) attorney Gary D. Sowards, appearing specially for Danks, and an Inmate Statement Report through December 24, 2010 from San Quentin State Prison.

**I. Request for Appointment of Counsel**

Section 3599(a)(2) of Title 18 of the United States Code provides for the appointment of one or more attorneys to represent an indigent person proceeding under 28 U.S.C. § 2254 to vacate a death sentence. Rule 191(c) of the Local Rules of the United States District Court for the Eastern District of California also provides for the appointment of counsel for indigent capital habeas petitioners. Under this rule, selection of counsel is made from a panel of attorneys qualified for appointment in death penalty cases and certified by a selection board appointed by the Chief Judge. Danks requests that the HCRC, which represented him before

1 the California Supreme Court on state habeas, be appointed to represent him in these federal proceedings.  
2 Danks is entitled to appointment of counsel under 18 U.S.C. § 3599(a)(2).

3 **II. Request for Stay of Execution**

4 Local Rule 191(g)(1) provides that when an indigent, condemned habeas petitioner submits an  
5 application for appointment of counsel and a temporary stay of execution, the Court may issue a temporary  
6 stay of execution for a period of 90 days, while counsel is located. Danks has presented no facts or  
7 circumstances that would warrant the exercise of discretion to issue a temporary stay of execution in this case.

8 **III. Request for a Status Conference**

9 Danks requests a status conference to establish a due date for the filing of his petition, the answer of  
10 Respondent Vince Cullen, As Warden of San Quentin State Prison (the “Warden”), and his traverse.

11 Once counsel is appointed, the Court will set a case management conference for Phase I of the  
12 litigation at which both Danks and the Warden will appear to discuss filing deadlines, lodging of the record,  
13 and review of the record. Prior to that conference, the Court will request counsel for both parties to complete  
14 case evaluation forms and for Danks’ attorneys to submit a case management plan and budget. Until then,  
15 both Danks and the Warden are encouraged to review the Fresno Attorney Guide to Case Management and  
16 Budgeting in Capital Habeas Cases in four phases. This document is available on the Court’s webpage under  
17 Attorney Info, Forms, CJA. The parties also are encouraged to review amended Local Rule 191, effective  
18 February 8, 2011.

19 **IV. Application for Leave to Proceed in *Forma Pauperis***

20 Rule 3(a) of the Rules Governing § 2254 Cases in the United States District Courts provides that a  
21 petitioner seeking *in forma pauperis* status shall file an affidavit of assets as required by 28 U.S.C. § 1915.  
22 Rule 3(a) also requires a certificate from the prison stating the amount on deposit in the petitioner’s accounts.  
23 While Danks’ Application to Proceed without Prepayment of Fees asserts his indigence, under penalty of  
24 perjury, and he includes an Inmate Statement Report with his submission, he has not provided the Court with  
25 a certificate from the prison stating the amount on deposit in his inmate account. The Inmate Statement  
26 Report is not certified by a prison official. Although Local Rule 191(e) does not require a filing fee for death  
27 penalty cases filed pursuant to 28 U.S.C. § 2254, the application for *in forma pauperis* should be presented  
28 properly before the Court confers that status on Danks.

1 Good cause appearing therefor,

2 1. Danks' application for appointment of counsel is granted. The matter is referred to the  
3 Selection Board for the Eastern District of California to certify an attorney or attorneys qualified and available  
4 to represent Danks before this Court.

5 2. Danks' request for a stay of execution is denied without prejudice.

6 3. Danks' request for a status conference is deferred.

7 4. Danks' application to proceed *in forma pauperis* is denied without prejudice.

8 IT IS SO ORDERED

9  
10 Dated: February 10, 2011

11 \_\_\_\_\_/s/ Lawrence J. O'Neill

12 Lawrence J. O'Neill  
United States District Judge