

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

JOSEPH MARTIN DANKS,

Petitioner,

vs.

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

Respondent.

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

**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
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SUPREME COURT
FILED

DEC - 7 2001

No. S032146

Frederick K. Ohlrich Clerk

DEPUTY

IN THE SUPREME COURT OF CALIFORNIA

THE PEOPLE, Respondent,

v.

JOSEPH DANKS, Appellant.

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

Chief Justice

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

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10 Dated: February 10, 2011

11 /s/ Lawrence J. O'Neill
12 Lawrence J. O'Neill
13 United States District Judge
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