

No.____
CAPITAL CASE

IN THE
Supreme Court of the United States

KEVIN B. BURNS,
Petitioner,

v.

TONY MAYS, WARDEN,
Respondent.

**On Petition for a Writ of Certiorari to the
United States Court of Appeals
for the Sixth Circuit**

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

Kevin Burns, the petitioner, seeks leave, pursuant to Sup. Ct. R. 39, to contemporaneously file a petition for a writ of certiorari without payment of costs and to proceed *in forma pauperis* without prepayment of fees.

Mr. Burns is an indigent Tennessee death row inmate. *State v. Burns*, 979 S.W.2d 276 (Tenn. 1998). The district court found Mr. Burns to be indigent and entitled to appointment of counsel pursuant to 18 U.S.C. § 3599 and 21 U.S.C. § 848, and the Federal Public Defender for the Middle District of Tennessee was appointed to represent him. *Burns v. Mays*, No. 06-cv-2311 (W.D. Tenn. June 1, 2006), R. 4, PageID# 131-32. However, he was not granted leave to file his habeas petition *in*

forma pauperis and was required to pay the \$5.00 filing fee. *Id.* at 133. He did so. The court of appeals granted Mr. Burns permission to proceed *in forma pauperis* on appeal. *Burns v. Mays*, 11-5214 (6th Cir. Feb. 8, 2013), ECF 52-1, p. 3.

Respectfully submitted,

/s/ Richard Lewis Tennent
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