

THIS IS A CAPITAL CASE

No. _____

In the Supreme Court of the United States

RAY DANSBY,

Petitioner

v.

DEXTER PAYNE, Director,
Arkansas Division of Correction,

Respondent

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

PETITIONER'S MOTION TO PROCEED IN FORMA PAUPERIS

Petitioner asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*. On January 31, 2003, the United States District Court for the Western District of Arkansas appointed the Federal Public Defender, among other counsel, to represent Petitioner. On February 10, 2003, the same court permitted Petitioner to proceed *in forma pauperis*. On September 18, 2019, the United States Court of Appeals for the Eighth Circuit appointed the Federal Public Defender's Office to continue representing Petitioner before that court. The courts' orders are attached hereto.

MARCH 31, 2023

Respectfully submitted,

LISA G. PETERS
FEDERAL PUBLIC DEFENDER



JOHN C. WILLIAMS

Counsel of Record

Ass't Federal Public Defender

1401 W. Capitol, Ste. 490

Little Rock, AR 72201

(501) 324-6114

john_c_williams@fd.org

Counsel for Petitioner

RECEIVED

FEB 04 2003

FEDERAL PUBLIC DEFENDER

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
EL DORADO DIVISION

RAY DANSBY

PETITIONER

VS.

No. 02-MC-04

LARRY NORRIS, Director,
Arkansas Department of Correction

RESPONDENT

ORDER

Before the Court is Petitioner's Motion for Appointment of Counsel. (Doc. No. 1).
Petitioner states that he was convicted of capital murder and sentenced to death. He is presently incarcerated at Tucker Maximum Unit, Tucker, Arkansas. He has exhausted his state remedies and his case is ripe for federal habeas corpus review. The Court finds his motion for appointment of counsel ripe for consideration.

MOTION FOR APPOINTMENT OF COUNSEL

Pursuant to *McFarland v. Scott*, 512 U.S. 849 (1994), Petitioner's requests Alvin Schay be appointed to represent him. He also requests that Sam Heuer and the Federal Public Defender be appointed as co-counsel. The Court finds Petitioner's request reasonable. Therefore, Petitioner's Motion for Appointment of Counsel is hereby **granted**. Attorneys Alvin Schay, Sam Heuer, and Jennifer Horan, Federal Public Defender, are hereby appointed to represent Petitioner.

APPOINTED COUNSEL'S COMPENSATION

The Court finds that, based on the experience of appointed counsel Alvin Schay and Sam

Heuer, the maximum compensation of \$125.00 per hour for each attorney will be allowed for in-court and out-of-court time. *See* 21 U.S.C. § 848(q)(10)(A). With regard to time spent in travel, the Court finds that \$90.00 per hour is a reasonable rate at which to compensate counsel for time spent traveling. Since the Court has also appointed Jennifer Horan, Federal Public Defender, to represent Petitioner, counsel are reminded to use the resources of the Federal Public Defender in this matter when possible.

SUBMISSION OF VOUCHERS

Because of the expected length of this matter and the anticipated hardship on counsel in undertaking representation for such a period without compensation, pursuant to paragraph 2.30 B of the Guidelines for the Administration of the Criminal Justice Act, the following procedures for interim payments shall apply during the course of representation in this case:

Counsel shall submit to the Court Clerk, twice each month, and interim CJA Form 30, "Death Penalty Proceedings: Appointment of the Authority to Pay Court-Appointed Counsel." Compensation earned and reimbursable expenses incurred from the 1st to the 15th day of each month shall be claimed on an interim voucher submitted no later than the 20th day of each month, or the first business day thereafter. Compensation earned and reimbursable expenses incurred from the 16th to the last day of each month shall be claimed on an interim voucher submitted no later than the 5th day of the following month, or the first business day thereafter. Each voucher shall be numbered when processed for payment. Counsel should complete Item 18 on the form for each interim voucher. Interim vouchers shall be submitted in accordance with this schedule even though little or no compensation or expenses are claimed for the respective period. All interim vouchers shall be supported by detailed and itemized time and

expense statements. Chapter VI, as well as the applicable provisions of Chapter II, Part C of the Guidelines for the Administration of the Criminal Justice Act, outlines the procedures and rules for claims by CJA attorneys and should be followed regarding each voucher.

The Court will review the interim vouchers when submitted particularly with regard to the amount of time claimed, and will authorize compensation to be paid for the approved number of hours. The Court also will authorize for payment all reimbursable expenses reasonably incurred.

At the conclusion of the representation, each counsel shall submit a final voucher seeking payment for representation provided during the final interim period. The final voucher shall also set forth in detail the time and expenses claimed for the entire case, including all documentation. Counsel shall reflect all compensation and reimbursement previously received on the appropriate line of the final voucher.

REIMBURSABLE EXPENSES

Counsel may be reimbursed for out-of-pocket expenses reasonably incurred incident to the representation. While the statute and applicable rules and regulations do not place a monetary limit on the amount of expenses that can be incurred, counsel should incur no single expense item in excess of \$300.00 without prior approval of the Court. Such approval may be sought by filing an *ex parte* application with the Clerk stating the nature of the expense, the estimated dollar cost and the reason the expense is necessary to the representation. An application seeking such approval may be filed *in camera*, if necessary. Upon finding that the expense is reasonable, the Court will authorize counsel to incur it. Recurring expenses, such as telephone toll calls, photocopying and photographs, which aggregate more than \$300.00 on one

or more interim vouchers are not considered single expenses requiring Court approval.

With respect to travel outside of Little Rock, Pulaski County, for the purpose of consulting with the client or his former counsel, interviewing witnesses, etc., the \$300.00 rule should be applied in the following manner. Travel expenses, such as air fare, mileage, parking fees, meals and lodging, can be claimed as itemized expenses. Therefore, if the reimbursement for expenses relating to a single trip will aggregate and amount in excess of \$300.00, the travel should receive prior approval of the Court.

The following additional guidelines may be helpful to counsel:

1. Case related travel by privately owned automobile should be claimed at the rate of 36 cents per mile or the standard rate for federal employee travel, plus parking fees, ferry fares, and bridge, road and tunnel tolls. Transportation other than by private automobile should be claimed on an actual expense basis. Air travel in "first class" is prohibited. Counsel and persons providing service under the CJA are encouraged to contact the Clerk for air travel authorization at government rates.

2. Actual expenses incurred for meals and lodging while traveling outside of Little Rock, Pulaski County, in the course of this representation must conform to the prevailing limitations placed upon travel and subsistence expenses of federal judiciary employees in accordance with existing government travel regulations. For specific details concerning high costs areas, counsel should consult the Clerk.

3. Telephone toll calls, telegrams, photocopying, and photographs can all be reimbursable expenses if reasonably incurred. However, general office overhead, such as rent, secretarial help, and telephone service, is not a reimbursable expense, nor are items of a personal

nature. In addition, expenses for service of subpoenas on fact witnesses are not reimbursable, but rather are governed by Fed. R. Civ. P. 17 and 28 U.S.C. §1825.

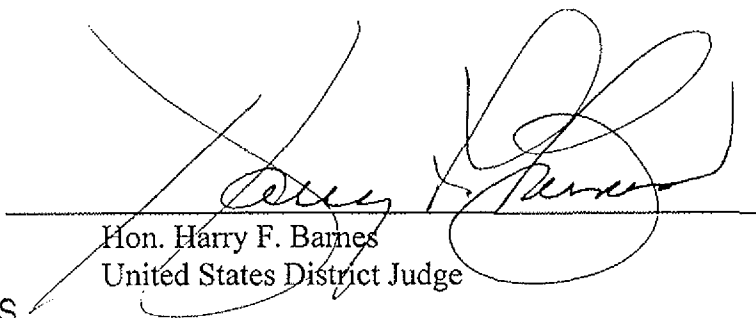
FURTHER QUESTIONS OR GUIDANCE

Answers to questions concerning appointment under the Criminal Justice Act can generally be found in (1) 18 U.S.C. §3006 A; (2) the Plan of the United States District Court for the Western District of Arkansas, available through the Clerk; and (3) Guidelines for the Administration of the Criminal Justice Act, published by the Administrative Office of th United States Courts, also available through the Clerk. Should these references fail to provide the desired clarification or direction, counsel should address their inquiry directly to the Court.

CONCLUSION

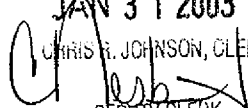
As herein stated, Petitioner's Motion for Appointment of Counsel is **granted**. Attorney Alvin Schay, Sam Heuer, and Jennifer Horan, Federal Public Defender, are hereby appointed to represent Petitioner in his Federal Writ of Habeas Corpus.

IT IS SO ORDERED, this 31st day of January, 2003.


 Hon. Harry F. Barnes
 United States District Judge

DISTRICT COURT
 STERN DISTRICT ARKANSAS
 FILED

JAN 31 2003


 CHRIS E. JOHNSON, CLERK
 DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
EL DORADO DIVISION

RAY DANSBY

PETITIONER

v.

No. 02-MC-04

LARRY NORRIS, Director,
Arkansas Department of Correction

RESPONDENT

ORDER

Comes on for consideration, petitioner's request to proceed as a pauper in this matter filed December 26, 2002 (Doc. #2), and referred to the undersigned on January 31, 2003 (Doc. #3).
Having reviewed same, petitioner's request is hereby granted

IT IS SO ORDERED this 7th day of February 2003.

Beverly Stites Jones

HON. BEVERLY STITES JONES
UNITED STATES MAGISTRATE JUDGE

U.S. DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS

FEB 10 2003

Christina Johnson, Clerk

RECEIVED

FEB 11 2003

FEDERAL PUBLIC DEFENDER

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 19-3006

Ray Dansby

Appellee

v.

Wendy Kelley, Director, Arkansas Department of Correction

Appellant

Appeal from U.S. District Court for the Western District of Arkansas - El Dorado
(1:03-cv-01146-RTD)

ORDER

IT IS ORDERED that the Federal Public Defender for the Eastern District of Arkansas is hereby appointed to continue to represent the above named appellee in all matters pertaining to this action before this Court.

September 18, 2019

Order Entered under Rule 27A(a):
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans