

THIS IS A CAPITAL CASE

No. _____

In the Supreme Court of the United States

STACEY JOHNSON, et al.

Petitioners

v.

DEXTER PAYNE, Director,
Arkansas Division of Correction, et al.

Respondents

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

PETITIONERS' MOTION TO PROCEED IN FORMA PAUPERIS

Petitioners Stacey Johnson, Don Davis, Terrick Nooner, Bruce Ward, Justin Anderson, Ray Dansby, Gregory Decay, Kenneth Isom, LaTavious Johnson, Timothy Kemp, Brandon Lacy, Zachariah Marcyniuk, Roderick Rankin, Andrew Sasser, and Mickey Thomas ask leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

On March 29, 2017, the United States District Court for the Eastern District of Arkansas granted Petitioners Stacey Johnson, Davis, and Ward permission to proceed *in forma pauperis* in the underlying action. On April 3, 2017, the United

States District Court for the Eastern District of Arkansas granted Petitioner Nooner permission to proceed *in forma pauperis* in the underlying action. On May 22, 2018, the United States District Court for the Eastern District of Arkansas granted Petitioners Anderson, Dansby, Decay, Isom, LaTavious Johnson, Kemp, Lacy, Marcyniuk, Rankin, Sasser, and Thomas permission to intervene in the underlying action and also permission to proceed *in forma pauperis*. The relevant orders are included as Attachment A,

Each Petitioner has previously been appointed counsel from the Federal Public Defender's Office under 18 U.S.C. § 3599 or the previous codification of that statute, 21 U.S.C. § 848. The relevant appointment orders are included as Attachment B.

APRIL 13, 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 Petitioners

Attachment A

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
LITTLE ROCK DIVISION**

CAPITAL CASE

STACEY JOHNSON

PLAINTIFF

v.

Case No. 4:17-cv-00181 KGB

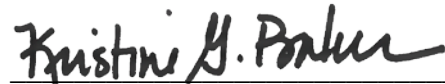
ASA HUTCHINSON, et al.

DEFENDANTS

ORDER

Before the Court is plaintiff Stacey Johnson's petition for leave to proceed *in forma pauperis* (Dkt. No. 1). Based on Mr. Johnson's application, Mr. Johnson has neither the funds nor the income to pay the filing fee. The Court grants Mr. Johnson's petition to proceed *in forma pauperis* and will permit him to proceed without prepayment of the filing fee (Dkt. No. 1). The Court directs the Clerk to issue a new summons in this action and return it to plaintiff's counsel for service.

So ordered this 29th day of March, 2017.



Kristine G. Baker
United States District Judge

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
LITTLE ROCK DIVISION**

CAPITAL CASE

DON DAVIS

PLAINTIFF

v.

Case No. 4:17-cv-00187 KGB

ASA HUTCHINSON, et al.

DEFENDANTS

ORDER

Before the Court is plaintiff Don Davis's petition for leave to proceed *in forma pauperis* (Dkt. No. 1). Based on Mr. Davis's application, Mr. Davis has neither the funds nor the income to pay the filing fee. The Court grants Mr. Davis's petition to proceed *in forma pauperis* and will permit him to proceed without prepayment of the filing fee (Dkt. No. 1). The Court directs the Clerk to issue a new summons in this action and return it to plaintiff's counsel for service.

So ordered this 29th day of March, 2017.



Kristine G. Baker
United States District Judge

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
LITTLE ROCK DIVISION**

CAPITAL CASE

BRUCE WARD

PLAINTIFF

v.

Case No. 4:17-cv-00182 KGB

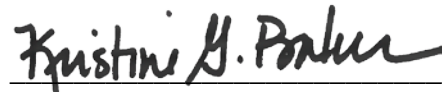
ASA HUTCHINSON, et al.

DEFENDANTS

ORDER

Before the Court is plaintiff Bruce Ward's petition for leave to proceed *in forma pauperis* (Dkt. No. 1). Based on Mr. Ward's application, Mr. Ward has neither the funds nor the income to pay the filing fee. The Court grants Mr. Ward's petition to proceed *in forma pauperis* and will permit him to proceed without prepayment of the filing fee (Dkt. No. 1). The Court directs the Clerk to issue a new summons in this action and return it to plaintiff's counsel for service.

So ordered this 29th day of March, 2017.



Kristine G. Baker
United States District Judge

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
LITTLE ROCK DIVISION**

CAPITAL CASE

TERRICK NOONER

PLAINTIFF

v.

Case No. 4:17-cv-00183 KGB

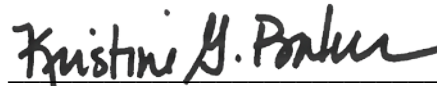
ASA HUTCHINSON, et al.

DEFENDANTS

ORDER

Before the Court is plaintiff Terrick Nooner's supplemental petition for leave to proceed *in forma pauperis* (Dkt. No. 5). Based on Mr. Nooner's supplemental application, Mr. Nooner has neither the funds nor the income to pay the filing fee. The Court grants Mr. Nooner's supplemental petition to proceed *in forma pauperis* and will permit him to proceed without prepayment of the filing fee (Dkt. No. 5). Mr. Nooner's original petition for leave to proceed *in forma pauperis* is denied as moot (Dkt. No. 1). The Court directs the Clerk to issue a new summons in this action and return it to plaintiff's counsel for service.

So ordered this 3rd day of April, 2017.



Kristine G. Baker
United States District Judge

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

JASON MCGEHEE, et al.

PLAINTIFFS

v.

Case No. 4:17-cv-00179 KGB

ASA HUTCHINSON, et al.

DEFENDANTS

ORDER

Before the Court is Justin Anderson, Ray Dansby, Gregory Decay, Kenneth Isom, Alvin Jackson, Latavious Johnson, Timothy Kemp, Brandon Lacy, Zachariah Marcyniuk, Roderick Rankin, Andrew Sasser, Thomas Springs, and Mickey Thomas' ("Intervenors") motion to intervene and to proceed *in forma pauperis* (Dkt. No. 106). Defendants have not filed a response, and the time for responding to the motion has passed. On April 13, 2018, the Court informally contacted counsel for defendants concerning the pending motion, and counsel for defendants represented that defendants take no position on the motion. For good cause shown, the Court grants the motion (Dkt. No. 106).

Intervenors request that this Court to allow them to intervene in this case pursuant to Federal Rule of Civil Procedure 24(b). Rule 24(b) allows parties to seek permissive intervention when there is a "conditional right to intervene by a federal statute" or the parties have a "claim or defense that shares with the main action a common question of law or fact." When seeking permissive intervention, the parties must show "(1) an independent ground for jurisdiction, (2) timeliness of the motion, and (3) that the applicant's claim or defense and the main action have a question of law or fact in common." *Flynt v. Lombardi*, 782 F.3d 963, 966-67 (8th Cir. 2015) (citing *United States v. Union Elec. Co.*, 64 F.3d 1152, 1170 n.9 (8th Cir. 1995)).

In support of their motion, Intervenor argue that they meet the standard for permissive intervention. First, Intervenor argue that their motion is timely because it was submitted within the statute of limitations and before the Court's June 4, 2018, deadline for seeking leave to add parties to the action. Intervenor also argue that they raise a question of law that is identical to the primary question at issue in this case: Whether the midazolam protocol violated the Eighth Amendment to the Constitution of the United States. Intervenor represent that they are similarly situated to plaintiffs because they are incarcerated under a sentence of death that would be carried out using the midazolam protocol, which they seek to challenge. Finally, Intervenor argue that their intervention in this case will not lead to undue delay or prejudice the adjudication of the original parties because all Intervenor, except for one, are represented by the same attorneys who represent plaintiffs.

For permissive intervention, the intervening party must first prove an independent ground for jurisdiction. Intervenor have satisfied this requirement because they are challenging the midazolam protocol based on the Eighth Amendment. 28 U.S.C. § 1331 ("The district court shall have original jurisdiction of all civil actions arising under the Constitution [or] laws . . . of the United States."). Second, Intervenor must show that their motion to intervene is timely. Intervenor filed this motion before the Court's deadline for seeking leave to add parties to the action and within the statute of limitations. Based on the timing of Intervenor's motion, this requirement is also satisfied. Finally, Intervenor have shown that their claim shares a question of law or fact in common with the main action. Intervenor assert that they are similarly situated to plaintiffs because Intervenor are also inmates who are incarcerated by the state of Arkansas under a sentence of death and would be executed according to the midazolam protocol. Intervenor also assert that they are making an identical claim because they are challenging the protocol based on

the Eighth Amendment, which is the same as plaintiffs' claims. For the above reasons, the Court grants Intervenors' motion to intervene.

The Court will now address Intervenors' motion to proceed *in forma pauperis* (Dkt. No. 106). Based on the application of each individual Intervenor, they have neither the funds nor the income to pay the filing fee (*Id.*, 5-43). The Court grants Mr. Anderson, Mr. Dansby, Mr. Decay, Mr. Isom, Mr. Jackson, Mr. Johnson, Mr. Kemp, Mr. Lacy, Mr. Marcyniuk, Mr. Rankin, Mr. Sasser, Mr. Springs, and Mr. Thomas' petitions to proceed *in forma pauperis* and will permit each of them to proceed without prepayment of the filing fee (Dkt. No. 106).

Also before the Court is Kenton W. Freeman, Jr.'s motion for permission to practice *pro hac vice* on behalf of separate plaintiffs Don Davis, Stacey Johnson, Jason McGehee, and Terrick Nooner and separate Intervenors Mr. Anderson, Mr. Dansby, Mr. Decay, Mr. Isom, Mr. Johnson, Mr. Kemp, Mr. Lacy, Mr. Marcyniuk, Mr. Sasser, Mr. Springs, and Mr. Thomas in this action (Dkt. No. 108).¹ Mr. Freeman requests to participate as counsel of record for separate plaintiffs and separate Intervenors (*Id.*, ¶ 1). Pursuant to Local Rules of the United States District Court for the Eastern and Western Districts of Arkansas the Court grants the motion to admit Mr. Freeman *pro hac vice*. Local Rule 83.5(d). Mr. Freeman shall appear as counsel of record for separate plaintiffs and separate Intervenors.

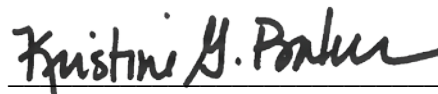
It is ordered that:

1. Intervenors' motion to intervene is granted (Dkt. No. 106).
2. Intervenors' applications to proceed *in forma pauperis* are granted (*Id.*). The Court will allow each Intervenor to proceed without prepayment of the filing fee (*Id.*).

¹ Intervenors Mr. Jackson and Mr. Rankin are not included in Mr. Freeman's motion permission to practice *pro hac vice* (Dkt. No. 108).

3. The Court grants Mr. Freeman's motion to practice *pro hac vice* (Dkt. No. 108). Mr. Freeman shall appear as counsel of record for separate plaintiffs Mr. Davis, Mr. Johnson, Mr. McGehee, and Mr. Nooner and separate Intervenors Mr. Anderson, Mr. Dansby, Mr. Decay, Mr. Isom, Mr. Johnson, Mr. Kemp, Mr. Lacy, Mr. Marcyniuk, Mr. Sasser, Mr. Springs, and Mr. Thomas.

So ordered this 22nd day of May, 2018.



Kristine G. Baker
United States District Judge

Attachment B

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION**

STACEY EUGENE JOHNSON

PETITIONER

v.

No. 4:06-mc-17-DPM

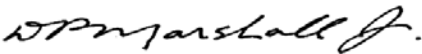
**DEXTER PAYNE, Director,
Arkansas Division of Correction***

RESPONDENT

ORDER

Motion, *Doc. 6*, granted. The Office of the Federal Public Defender of the District of Arizona, Capital Habeas Unit, is substituted as counsel for Johnson pursuant to 18 U.S.C. § 3599(a)(2). One or more lawyers from that unit must enter an appearance by 22 April 2020. Jeff Rosenzweig and Gerald Coleman are relieved as counsel.

So Ordered.



D. P. Marshall Jr.
United States District Judge

10 April 2020

* Dexter Payne is the current director of the Arkansas Division of Correction. The Court directs the Clerk to update the docket.

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION**

DON WILLIAM DAVIS

PETITIONER

V.

CASE NO. 01-5188

**WENDY KELLEY¹, Director,
Arkansas Department of Correction**

RESPONDENT

ORDER

The above referenced matter comes on for this Court's consideration of the **Application to Substitute Deceased Counsel and for Appointment of Federal Habeas Corpus Counsel Under 18 U.S.C. § 3599(a)(2) (Doc. 44)**. The Court, being well and sufficiently advised, finds and orders that the motion should be **granted** and that, pursuant to McFarland and 18 U.S.C. § 3599(a)(2), the Office of the Federal Public Defender for the Eastern District of Arkansas is appointed to represent Don William Davis in this proceeding under 28 U.S.C. § 2254 as contemplated by the Criminal Justice Act Plan adopted by this Court and in any and all matters dealing with the Respondent's effort to carry out his execution.

IT IS SO ORDERED this 20th day of March, 2017.

/s/ Susan O. Hickey
SUSAN O. HICKEY
UNITED STATES DISTRICT JUDGE

¹ Wendy Kelley was officially named the Director of the Arkansas Department of Corrections on January 13, 2015. As successor in office, Ms. Kelley is automatically substituted as a party pursuant to Federal Rule of Civil Procedure 25(d). The Clerk of the Court is directed to amend the docket sheet accordingly.

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION

TERRICK TERRELL NOONER

PETITIONER

Case Number: **5:96CV00495 GH**

LARRY NORRIS, Director of the Arkansas
Department of Correction

DEFENDANT

ORDER

On motion of petitioner, for good cause shown, the Federal Public Defender Office is hereby substituted as counsel for petitioner and Dale E. Adams is hereby relieved as counsel of record for petitioner.

IT IS SO ORDERED this 3rd day of May, 2006.


UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

JUN 10 2003

JAMES W. McCORMACK, CLERK
By: J. Horan DEP. CLERK

BRUCE EARL WARD,
Petitioner,

*
*
*
*
*
*
*
*
*
*

No. 5:03CV00201JMM

v.

LARRY NORRIS, Director,
Arkansas Department of
Correction,
Respondent


ORDER

Before the Court is Petitioner's Motion for Appointment of Counsel, in which attorney Craig Lambert, Petitioner's current counsel, seeks to be relieved, and Petitioner requests the appointment of attorney Bill McLean. Petitioner's Motion for Appointment of Counsel is GRANTED. The Court appoints Bill McLean and Sam Heuer *nunc pro tunc* to May 27, 2003, to represent petitioner with the understanding that counsel will refrain from duplicating their time and efforts on petitioner's behalf. Counsel are directed to maintain careful time records, which the Court will scrutinize prior to approving any fees.

The Court also appoints Jenniffer Horan, Federal Public Defender, to represent petitioner. When possible, counsel are directed to use the resources of the Federal Public Defender in the preparation and development of this case.

Finally, the Court relieves Craig Lambert from further representation in this matter.

IT IS SO ORDERED this 9 day of June, 2003


UNITED STATES DISTRICT COURT

THIS DOCUMENT ENTERED ON
DOCKET SHEET IN COMPLIANCE
WITH RULE 58 AND/OR 79(a) FRCP
ON 6/10/03 BY J. Jones

ti

UNITED STATES DISTRICT COURT
Eastern District of Arkansas
U.S. Court House
600 West Capitol, Suite 402
Little Rock, Arkansas 72201-3325

June 10, 2003

* * MAILING CERTIFICATE OF CLERK * *

Re: 5:03-cv-00201.

True and correct copies of the attached were mailed by the clerk to the following: press, file

Walter Craig Lambert, Esq.
Attorney at Law
Regions Center
400 West Capitol Avenue
Suite 1700
Little Rock, AR 72201

William A. McLean, Esq.
Attorney at Law
523 West Third Street
Little Rock, AR 72201-2309

Jenniffer Morris Horan, Esq.
Federal Public Defender's Office
310 South Louisiana Street
Little Rock, AR 72201

Sam T. Heuer, Esq.
Attorney at Law
124 West Capitol Avenue
Suite 1650
Little Rock, AR 72201

James W. McCormack, Clerk

Date: 6/10/03 _____

T Jones
BY: _____

THIS IS A CAPITAL CASE

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS**

CASE NO. 4:11 mc 42 Jmm

IN RE JUSTIN ANDERSON,

MOVANT.

ORDER

Justin Anderson's motion for appointment of counsel is granted. The Federal Public Defender's Capital Habeas Unit is hereby appointed to represent Mr. Anderson in his federal habeas corpus case and in any ancillary proceedings.

IT IS SO ORDERED this 22 day of November, 2011


UNITED STATES DISTRICT COURT JUDGE

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.

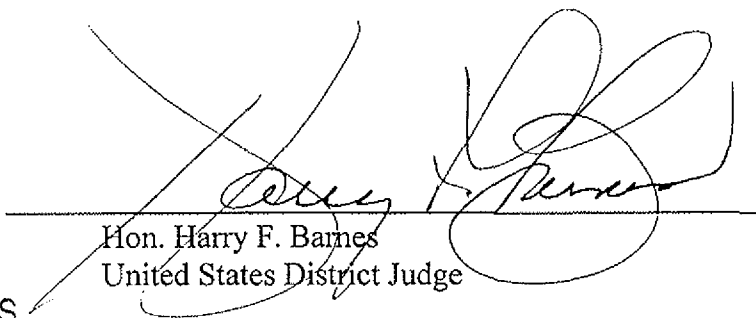
FURTHER QUESTIONS OR GUIDANCE

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

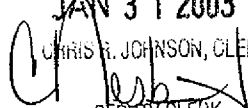
As herein stated, Petitioner's Motion for Appointment of Counsel is **granted**. Attorney Alvin Schay, Sam Heuer, and Jennifer Horan, Federal Public Defender, are hereby appointed to represent Petitioner in his Federal Writ of Habeas Corpus.

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

THIS IS A CAPITAL CASE

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

IN RE GREGORY DECAY

*
*
*
*
*

NO: 4:13MC003 SWW

ORDER

Before the Court is an application to proceed without prepayment of fees and a motion to appoint counsel filed by Gregory Decay--a inmate of the Varner Supermax Unit of the Arkansas Department of Correction, confined under two sentences of death for capital murder. The Court finds that the motion should be granted.

IT IS THEREFORE ORDERED that the Application to Proceed Without Prepayment of Fees be and it is hereby GRANTED.

IT IS FURTHER ORDERED that the Federal Public Defender is appointed to represent Gregory Decay in a proceeding under 28 U. C. S. § 2254.

IT IS SO ORDERED THIS 25TH DAY OF MARCH, 2013.

/s/Susan Webber Wright
UNITED STATES DISTRICT JUDGE

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION**

IN RE KENNETH R. ISOM

APPLICANT

No. 4:11MC00005 JLH

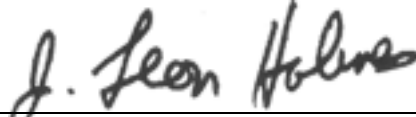
ORDER

Kenneth R. Isom has filed an application for leave to proceed *in forma pauperis* (“IFP”). The information Isom has provided indicates that he has sufficient assets to pay the \$5.00 federal habeas corpus filing fee, and is not entitled to IFP status. Isom also requests the appointment of the Federal Public Defender to represent him in his proceeding under 28 U.S. C. § 2254.

IT IS THEREFORE ORDERED THAT:

1. Petitioner’s motion for leave to proceed IFP is DENIED.
2. Petitioner’s motion for appointment of the Federal Public Defender is GRANTED.

IT IS SO ORDERED this 24th day of January, 2011.



J. LEON HOLMES
UNITED STATES DISTRICT JUDGE

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

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.

THIS IS A CAPITAL CASE

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
LITTLE ROCK DIVISION**

IN RE BRANDON LACY

APPLICANT

Case No. 4:17-mc-00014-KGB

ORDER

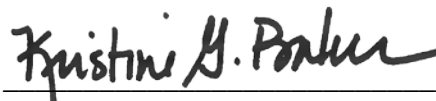
Before the Court is applicant Brandon Lacy's application for appointment of federal *habeas corpus* counsel under 18 U.S.C. § 3599(a)(2) (Dkt. No. 1). The application states that Mr. Lacy is indigent, currently unrepresented by federally appointed counsel, and has never been afforded any federal review of his conviction and death sentence. The application further states that "Mr. Lacy wishes to file a petition for a writ of *habeas corpus* at the appropriate time, pursuant to 28 U.S.C. § 2254, challenging the constitutionality of his convictions and sentences, and that appointment of counsel is mandatory under the Criminal Justice Act Plan adopted by this Court on July 19, 2012. Part IV Provisions of Representation § A9." (Dkt. No. 1, ¶ 4).

The application represents that the undersigned counsel, Scott Braden, possesses special expertise in capital jurisprudence and meets the qualification standards for the appointment of such counsel as set forth in 18 U.S.C. § 3599(a)(2) and section F of the Criminal Justice Act Plan adopted by this Court. The Criminal Justice Act Plan states that counsel should be appointed by this Court "when the court determines that they will provide the most effective representation." CJA Plan § F(1). Mr. Braden asserts that appointment now is in the best interest of Mr. Lacy due to the one year statute of limitations set forth in 28 U.S.C. § 2244(d).

Attached to the application currently before this Court is an application to proceed without prepayment of fees and an affidavit attesting to Mr. Lacy's indigence. Based on a review of the

application and the affidavit, the Court determines that Mr. Lacy has neither the funds nor the income to retain counsel on his own. Therefore, the Court grants Mr. Lacy's application for appointment of federal *habeas corpus* counsel under 18 U.S.C. § 3599(a)(2) (Dkt. No. 1).

So ordered this 15th day of August, 2017.

Handwritten signature of Kristine G. Baker in black ink.

Kristine G. Baker
United States District Judge

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS**

CAPITAL CASE

IN RE LATAVIOUS JOHNSON

CASE NO. 4:17-MC-00015 BSM

ORDER

Latavious Johnson, who has been sentenced to death, requests leave to proceed *in forma pauperis* to initiate *habeas* review of his conviction and sentence. He also seeks appointment of federal *habeas* counsel. His motion is granted. The federal public defender for the Eastern District of Arkansas is appointed to represent Johnson in his federal *habeas corpus* case. *See* 28 U.S.C. § 3599(a)(2).

IT IS SO ORDERED this 23rd day of August 2017.


UNITED STATES DISTRICT JUDGE

THIS IS A CAPITAL CASE
IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS

IN RE ZACHARIAH SCOTT MARCYNIUK,

Applicant.

Case No. *4:14 MC 13-KGB*

ORDER OF APPOINTMENT

Pending before the Court is the Application to Proceed Without Prepayment of Fees and Affidavit, the Application to Appoint Counsel filed on behalf of Zachariah Scott Marcyniuk. It appears to the Court that this Application should be granted.

IT IS THEREFORE ORDERED that the Application to Proceed Without Prepayment of Fees, be and it is hereby GRANTED.

IT IS FURTHER ORDERED, that the Federal Public Defender for the Eastern District of Arkansas is appointed to represent Zachariah Scott Marcyniuk in this proceeding under 28 U. C. S. § 2254.

IT IS SO ORDERED this 18th day of June, 2014.

Kristine H. Parker

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION**

RODERICK LESHUN RANKIN

PETITIONER

v.

5:06MC00001-WRW

**LARRY NORRIS, Director,
Arkansas Department of Corrections**

RESPONDENT

ORDER

Pending before the Court are Petitioner's Motions to Proceed *In Forma Pauperis* and for Appointment of Counsel (Doc. No. 1). The motions are GRANTED. Mr. Billy H. Nolas, Mr. Michael Wiseman, and Ms. Rebecca A. Blaskey of the Federal Community Defender Office for the Eastern District of Pennsylvania, Capital Habeas Unit, Suite 545 West, the Curtis Center, 601 Walnut Street, Philadelphia, PA 19106, are appointed *nunc pro tunc* to June 12, 2006, to represent petitioner in his federal habeas corpus proceedings.

IT IS SO ORDERED this 20th day of July, 2006.

/s/Wm. R. Wilson, Jr.
UNITED STATES DISTRICT JUDGE

[Handwritten initials]

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

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

SEP 2 6 1999

JAMES W. MCCORMACK, CLERK
By: *[Signature]*
DEPT. CLERK

ANDREW SASSER,

Petitioner,

vs.

LARRY NORRIS, Director,
Arkansas Department of Correction,

Respondent.

*
*
*
*
*
*
*
*
*

No. LR-M-99-0136

ORDER

Pending before the Court is a motion to proceed in forma pauperis and petition for appointment of counsel pursuant to 21 U.S.C. § 848(q)(4)(B). Upon review of the motion, petition, and brief in support, the Court finds that they should be granted.

Petitioner is hereby granted in forma pauperis status. In addition, the Court grants the petition for appointment of qualified counsel. The Court hereby appoints the Federal Public Defender's Office to represent petitioner in preparing and filing a habeas petition pursuant to 28 U.S.C. § 2254.

IT IS SO ORDERED this 25th day of August 1999.

RECEIVED

SEP 2 1999

FEDERAL PUBLIC DEFENDER

[Signature]
CHIEF JUDGE
UNITED STATES DISTRICT COURT

THIS DOCUMENT ENTERED ON DOCKET SHEET IN
COMPLIANCE WITH RULE 58 AND/OR 79(a) FRCP
ON 8/26/99 BY *[Signature]*

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS**

IN RE MICKEY DAVID THOMAS

MOVANT

CASE NO. 4:11MC00049 BSM

ORDER

Mickey David Thomas moves to proceed *in forma pauperis* and for appointment of the Arkansas Federal Public Defender's Capital Habeas Unit as counsel to represent him in connection with habeas corpus proceedings. [Doc. No. 1]. For good cause shown, that motion is granted.

IT IS SO ORDERED this 12th day of January 2012.


UNITED STATES DISTRICT JUDGE