

No. 23-167

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**In the Supreme Court of the United States**

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COMMISSIONER,  
ALABAMA DEPARTMENT OF CORRECTIONS,  
*Petitioner,*

v.

JOSEPH CLIFTON SMITH,  
*Respondent.*

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

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**MOTION TO PROCEED *IN FORMA PAUPERIS***

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September 26, 2023

Petitioner, Joseph Clifton Smith, an indigent individual incarcerated on Alabama's death row, respectfully requests that this Court grant him leave to proceed *in forma pauperis*, without prepayment of costs or fees.

In support of this motion, Mr. Smith states:

1. Mr. Smith is in custody at Holman Correctional Facility.
2. Mr. Smith was granted leave to proceed *in forma pauperis* and undersigned counsel was appointed to represent him pursuant to 18 U.S.C. § 3599. A copy of the order is attached to this motion.
3. Mr. Smith's financial circumstances have not materially changed since the lower courts have permitted him to proceed *in forma pauperis* and counsel was appointed.

For the reasons set forth above, Mr. Smith respectfully requests that this Court grant him *in forma pauperis* status.

Respectfully submitted,

/s/ Kacey L. Keeton  
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IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

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No. 14-10721-P

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JOSEPH CLIFTON SMITH,

Petitioner - Appellant,

versus

DONAL CAMPBELL,  
COMMISSIONER KIM TOBIAS THOMAS,

Respondents - Appellees.

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Appeal from the United States District Court  
for the Southern District of Alabama

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Before: TJOFLAT, HULL and WILSON, Circuit Judges.

BY THE COURT:

The Court grants Smith's application for a certificate of appealability as to these issues:

1. Whether the Alabama state courts' procedural ruling—that in his Rule 32 post-conviction pleadings as to his mental retardation claim, Smith failed to comply with the specificity pleading requirements in Rule 32.6(b) of the Alabama Rules of Criminal Procedure—was contrary to or an unreasonable application of Atkins v. Virginia, 536 U.S. 304 (2002)?
2. Whether the Alabama state courts' merits determination—that Smith did not show significant deficits in adaptive behavior

manifested before age 18—is an unreasonable determination of the facts or an unreasonable application of Atkins?

3. Whether the Alabama state courts' merits determination—that Smith did not show subaverage intellectual functioning—is an unreasonable determination of the facts or an unreasonable application of Atkins?

Smith's application as to other issues is denied. The Court grants Smith's motion to proceed in forma pauperis.