

No. \_\_\_\_\_

**IN THE SUPREME COURT OF THE UNITED STATES**

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Beau John Greene, Petitioner,

vs.

State of Arizona, Respondent.

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**\*\*CAPITAL CASE\*\***

**ON PETITION FOR WRIT OF CERTIORARI  
TO THE ARIZONA SUPREME COURT**

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**MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS***

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Julie Hall  
Counsel of Record  
779 S. Cody Loop Rd  
Oracle, AZ 85623-6121  
(520) 609-2415  
JulieSHall@hotmail.com

*Counsel for Petitioner Greene*

Pursuant to Rule 39 of this Court's Rules, Petitioner Beau John Greene hereby seeks leave to proceed in forma pauperis in the above-captioned case on the ground that he lacks sufficient funds to pay for fees and expenses. Mr. Greene is a death-row prisoner incarcerated at the Arizona State Prison Complex in Florence, Arizona. He has been repeatedly deemed eligible for court-appointed counsel throughout his capital proceedings in state and federal court. (App. A, B, C, & D.) Mr. Greene thus respectfully requests that he be permitted to proceed in forma pauperis before this Court.

Respectfully submitted: September 11, 2023.

Julie Hall  
Counsel of Record  
779 S. Cody Loop Rd  
Oracle, AZ 85623-6121  
(520) 609-2415  
JulieSHall@hotmail.com

\_\_\_\_\_  
/s/Julie Hall  
*Counsel for Petitioner Greene*

## **APPENDIX**

Appendix A:

*State v. Greene*, No. CR48730 Doc. No. 20 (Pima County Super. Ct. 1995) (order appointing trial counsel)..... a001

Appendix B:

*State v. Greene*, No. CR96-0502-AP Doc. No. 2 (Ariz. 1996) (minute entry order appointing direct appeal counsel)..... a003

Appendix C:

*State v. Greene*, No. CR96-0502-AP Doc. No. 22 (Ariz. 2000) (order appointing state post-conviction counsel)..... a004

Appendix D:

*Greene v. Schriro*, No. CV-03-605-TUC-CKJ, Doc. No. 7 (D.Ariz. Dec. 24, 2003) (order appointing federal habeas counsel)..... a006

## **APPENDIX A**

STATE

PIMA COUNTY, ARIZONA

K-48730  
JF 28 1995

FILED  
CLERK'S OFFICE  
PIMA COUNTY  
SUPERIOR COURT

Beau John Greene

NO: JP95-502894  
ORDER RE  
COURT APPOINTED COUNSEL

95 MAR 28 PM 2:28

95

( ) SUPERIOR COURT (xxx) JUSTICE COURT ( ) CITY COURT  
BY: S. CARRANZA,  
DEPUTY

Having considered the Defendant's Financial Statement and finding that the defendant is charged with Class \_\_\_\_\_, (xxx) Felony ( ) Misdemeanor

IT IS ORDERED in the above numbered cause(s):

(xx) Appointing the below-named attorney to represent the defendant for all further proceedings through the filing of a Notice Of Appeal if required:

(xx) Court Appointed Attorney PD/WD; Appoint David Darby

( ) Reserving the right to later assess attorney fees and/or reset review hearing for \_\_\_\_\_, at \_\_\_\_\_ a.m./p.m.

( ) Assessing attorney fees of \$ \_\_\_\_\_ to offset the costs of legal services provided, with the defendant to pay the assessed fees at the rate of \$ \_\_\_\_\_ per month, commencing \_\_\_\_\_.

) Denying the defendant's request for court appointed counsel, with the defendant being:

( ) Directed to the Pima County Bar Association Criminal Lawyers' Referral Program.

( ) Required to hire his or her own attorney.

3/10/95

JUDGE/COMMISSIONER/MAGISTRATE

DATE

IF YOUR REQUEST FOR COURT APPOINTED COUNSEL HAS BEEN DENIED, YOU MAY ASK THE COURT TO RECONSIDER YOUR REQUEST AT A LATER TIME, IF YOU TRY BUT FIND THAT YOU CANNOT AFFORD TO HIRE YOUR OWN LAWYER. IF YOU WANT TO APPEAL YOUR ASSESSMENT, YOU MUST REQUEST A RE-HEARING WITHIN 10 DAYS.

I UNDERSTAND THAT FAILURE TO COMPLY WITH THE ABOVE LISTED PAYMENT CONTRACT MAY RESULT IN COURT ACTION AGAINST ME. IN ADDITION, THE COURT HAS THE OPTION OF CIVIL LAWSUITS TO GARNISH WAGES AND ATTACHMENTS. THE COURT MAY TAKE WHATEVER ACTION IS NECESSARY TO COLLECT THE AMOUNT DUE.

FURTHER, I AGREE TO REPORT ANY CHANGE OF ADDRESS, PHONE, OR EMPLOYMENT TO THE COURT WITHIN FIVE DAYS OF SAID CHANGE.

David

42 3/10/95

a001

DEFENDANT

DATE

04061

## PIMA COUNTY, ARIZONA

STATE

BEAU JOHN GREENE

NO: CR-48730

ORDER RE  
COURT APPOINTED COUNSEL

95 MAR 31

PM 2:18

 SUPERIOR COURT  JUSTICE COURT  CITY COURT  
~~BY: S. CARRANZA, DEPUTY~~Having considered the Defendant's Financial Statement and finding that the defendant is charged with Class \_\_\_\_\_,  Felony  Misdemeanor

IT IS ORDERED in the above numbered cause(s):

 Appointing the below-named attorney to represent the defendant for all further proceedings through the filing of a Notice Of Appeal if required: Court Appointed Attorney David Darby Reserving the right to later assess attorney fees and/or reset review hearing for \_\_\_\_\_, at \_\_\_\_\_ a.m./p.m. Assessing attorney fees of \$ 100.00 to offset the costs of legal services provided, with the defendant to pay the assessed fees at the rate of \$ \_\_\_\_\_ per month, commencing \_\_\_\_\_. Denying the defendant's request for court appointed counsel, with the defendant being: Directed to the Pima County Bar Association Criminal Lawyers' Referral Program. Required to hire his or her own attorney.Payment to be set by trial  
3/31/95

JUDGE/COMMISSIONER/MAGISTRATE

DATE

IF YOUR REQUEST FOR COURT APPOINTED COUNSEL HAS BEEN DENIED, YOU MAY ASK THE COURT TO RECONSIDER YOUR REQUEST AT A LATER TIME, IF YOU TRY BUT FIND THAT YOU CANNOT AFFORD TO HIRE YOUR OWN LAWYER. IF YOU WANT TO APPEAL YOUR ASSESSMENT, YOU MUST REQUEST A RE-HEARING WITHIN 10 DAYS.

I UNDERSTAND THAT FAILURE TO COMPLY WITH THE ABOVE LISTED PAYMENT CONTRACT MAY RESULT IN COURT ACTION AGAINST ME. IN ADDITION, THE COURT HAS THE OPTION OF CIVIL LAWSUITS TO GARNISH WAGES AND ATTACHMENTS. THE COURT MAY TAKE WHATEVER ACTION IS NECESSARY TO COLLECT THE AMOUNT DUE.

FURTHER, I AGREE TO REPORT ANY CHANGE OF ADDRESS, PHONE, OR EMPLOYMENT TO THE COURT WITHIN FIVE DAYS OF SAID CHANGE.

a002

DEFENDANT

SCCR-03 (04/92)

Orig-File Green-Statistics Canary-Defendant Pink-Prosecution Gold-Defense

04062 BKT 4799 PAGE 118

DATE

## **APPENDIX B**

RECEIVED

NOV 12 1996

CLERK SUPREME COURT

ARIZONA SUPERIOR COURT, PIMA COUNTY

JUDGE: HON. BERNARDO VELASCO

CASE NO. CR-48730

COURT REPORTER: NONE

DATE: November 8, 1996

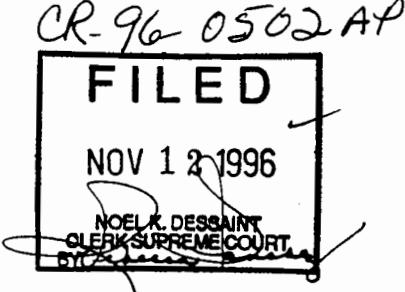
THE STATE OF ARIZONA

Plaintiff

vs.

BEAU JOHN GREENE

Defendant



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MINUTE ENTRY

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IN CHAMBERS RULING RE APPOINTMENT OF APPELLATE COUNSEL:

A Notice of Appeal having been filed by trial counsel David Alan Darby,

IT IS ORDERED that Harriette Levitt is appointed appellate counsel nunc pro tunc,

August 26, 1996.

cc: Hon. Bernardo Velasco  
Criminal Calendaring  
County Attorney - Rick Unklesbay, Esq.  
David Darby, Esq.  
Jill Thorpe, Esq.  
Clerk of Court - Appeals  
Indigent Defense Services  
Clerk of the Supreme Court-402 Arizona Courts Bldg, 1501 W. Washington, Phoenix, AZ 85007  
Harriette P. Levitt, Esq. - 485 S. Main Ave., Tucson, AZ 85737 (phone 624-0400)  
Attorney General  
Court of Appeals - Div. Two

a003

Sharon Coil/sid

Deputy Clerk

NOV

8

REG

## **APPENDIX C**

SUPREME COURT OF ARIZONA

Upon the Court's own motion,

IT IS ORDERED that Michael Villarreal, Esq., is appointed to represent Beau John Greene in post-conviction proceedings pursuant to A.R.S. § 13-4041 and Rule 6.8(c), Ariz. R. Crim. P.

IT IS FURTHER ORDERED that counsel shall be compensated at the rate of \$100.00 per hour plus reasonable costs incurred in the representation. If counsel's work hours are over two hundred hours, the superior court shall review and approve additional reasonable fees and costs pursuant to A.R.S. § 13-4041(H). Counsel shall direct requests for the appointment of investigators and experts to the superior court pursuant to A.R.S. § 13-4013(B) and § 13-4041(J).

DATED this 2nd day of February, 2000.

  
THOMAS A. ZLAKET  
Chief Justice

TO:

Hon. Janet Napolitano, Arizona Attorney General  
Attn: Paul J. McMurdie, Esq., and Dawn Northup, Esq.  
Michael Villarreal, Esq.

Beau John Greene, DOC 123048, Eyman Complex, SMU II, Arizona  
State Prison, Florence

Hon. Bernardo Velasco, Judge, Pima County Superior Court

Hon. Gordon T. Alley, Presiding Judge, Pima County Superior  
Court

Hon. John S. Leonardo, Presiding Criminal Judge, Pima  
County Superior Court

Patricia Noland, Clerk, Pima County Superior Court

Phil Maloney, Indigent Defense Services, 32 N. Stone Ave., Suite  
1902, Tucson, AZ 85701

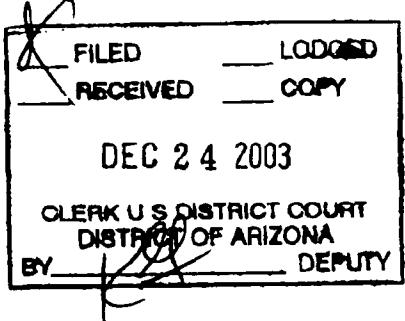
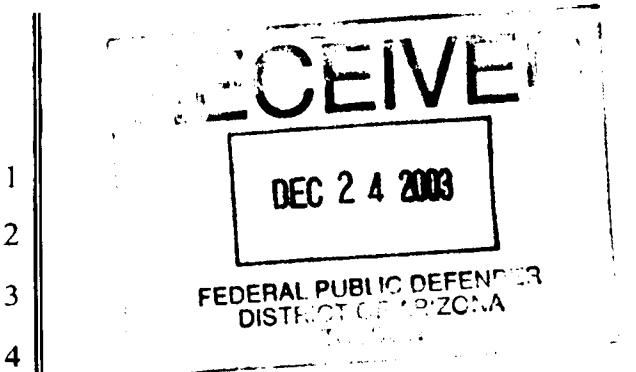
Mike Baumstark, AOC, Supreme Court

Hon. Michael D. Ryan, Court of Appeals [Info Copy]

Jennifer Might, Administrator, Arizona Capital Representation  
Project [Information Copy Only]

Jonathan Bass, Staff Attorney (Southern Counties), Arizona Capital  
Litigation Law Clerk Project [Information Copy Only]

## **APPENDIX D**



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Beau John Greene, } No. CV 03-605-TUC-CKJ  
Petitioner, }  
vs. }  
Dora Schriro, et al., }  
Respondents. }  
DEATH PENALTY CASE

**ORDER OF APPOINTMENT  
AND GENERAL PROCEDURES**

IT IS ORDERED granting Petitioner's Application for Appointment of Counsel and appointing Fredric F. Kay, Federal Public Defender, District of Arizona, as Counsel for Petitioner in his federal habeas corpus proceedings. The Federal Public Defender is authorized to designate an Assistant Federal Public Defender to handle the case. Appointment is made pursuant to 21 U.S.C. § 848(q)(4)(B).

IT IS FURTHER ORDERED that the designated Assistant Federal Public Defender file a notice of appearance with the Court within 10 days from the entry of this Order.

IT IS FURTHER ORDERED granting Petitioner's application to proceed *in forma pauperis*.

IT IS FURTHER ORDERED that the Arizona Attorney General file a notice of appearance with the Court within 10 days from the entry of this Order.

IT IS FURTHER ORDERED that, in addition to the requirement of Local Rule 1.9(f), the parties shall file with the Clerk of Court an additional copy of every pleading or

1 other document filed from this date forward for use by the Capital Case Staff Attorney. The  
2 notation "Capital Case Staff Attorney Copy" shall be clearly marked on the first page of such  
3 copy.

4 **IT IS FURTHER ORDERED** that the following procedures shall govern the briefing  
5 and resolution of this matter:

6       I.       Case Management Conference

7           A case management conference will be held on **Monday, February 9, 2004, at 2:00**  
8 **p.m. in Courtroom 5A, Evo A. DeConcini United States Courthouse, Tucson.** Non-local  
9 counsel may, if requested, appear by telephone. Any request to appear by telephone must be  
10 filed at least ten (10) days prior to the scheduled conference. Prior to the conference,  
11 Petitioner's counsel is expected to meet with Petitioner and to review any published case  
12 decisions. Counsel is further expected to contact Petitioner's state court counsel to obtain  
13 information about the case and to assemble the files and records from the state proceedings.  
14 Absent a motion detailing significant delays, problems or obstacles encountered in obtaining  
15 copies of pertinent files and records, the Court will not assist directly in obtaining such  
16 materials. Also prior to the conference, counsel for both parties are expected to confer  
17 regarding a proposed briefing schedule in this matter.

18           At the conference, Petitioner's counsel will be expected to discuss the status of file  
19 and record assembly and review, any problems encountered in this regard, and whether  
20 assistance regarding the state court record is needed from Respondents. Both parties should  
21 be prepared to articulate their positions regarding the statute of limitations, to discuss any  
22 other issues which may affect the filing of the Amended Petition or efficient resolution of  
23 this matter, and to propose a briefing schedule.

24           Following the conference, the Court will issue a Case Management Order setting firm  
25 deadlines for the filing of the Amended Petition, responsive pleadings, motions for further  
26 evidentiary development, and other pleadings as the Court may deem necessary.

27       II.       Amended Petition

28           The Amended Petition shall include and set forth all known claims of constitutional

1 error or deprivation entitling Petitioner to federal habeas relief. See Rule 2(c), 28 U.S.C. foll.

2 § 2254. In addition to the requirement of Local Rule 1.9, the Amended Petition shall:

- 3 (1) separately enumerate *every* claim for federal habeas relief (related claims such  
4 as ineffective assistance of counsel may be separately enumerated as sub-  
claims);
- 5 (2) include a table of contents;
- 6 (3) state with specificity the facts and legal authority supporting each claim;
- 7 (4) state with specificity whether, when and where each claim was presented to or  
considered by the state's highest court;
- 8 (5) include, in any appendices, a table of contents and tabs between exhibits; and
- 9 (6) not contain, as exhibits or otherwise, significant portions of the state court  
10 record (i.e., copies of transcripts);<sup>1</sup>

11 III. Answer

12 After the Amended Petition is filed, Respondents shall file an Answer. Pursuant to  
13 Rule 5 of the Rules Governing Section 2254 Cases, Respondents' Answer shall specifically  
14 respond to the allegations of the petition. The Court intends the Answer to be a  
15 comprehensive responsive pleading, addressing both the factual allegations and legal  
16 contentions raised in the Amended Petition as well as any procedural defenses with respect  
17 to individual claims. Accordingly, Respondents shall address the merits of every enumerated  
18 claim and sub-claim, regardless of whether Respondents allege the claim is barred from  
19 review by the federal court. In addition, Respondents' Answer shall include a table of  
20 contents.

21 IV. Traverse

22 Petitioner will be given an opportunity to file a Traverse in reply to Respondents'  
23 Answer. The filing of a Traverse is optional. If a Traverse is filed, it shall include a table  
24 of contents.

25  
26  
27 <sup>1</sup> Following the filing of the Amended Petition, the Court will, on its own motion, seek a certified  
28 copy of the state court record from the Arizona Supreme Court, which includes trial, appeal and post-  
conviction pleadings as well as transcripts. Accordingly, the parties may cite to appropriate state court  
documents in their pleadings but should not reproduce such documents as exhibits.

## **V. Evidentiary Development**

Following the filing of the Amended Petition, Answer and Traverse (if any), Petitioner shall file any requests for further evidentiary development of a claim. Such motions include, but are not limited to, requests for Discovery, Expansion of the Record and Evidentiary Hearing under Rules 6, 7 and 8 of the Rules Governing Section 2254 Cases. Any motion for evidentiary development shall:

- (1) separately identify which enumerated claim(s) and sub-claim(s) Petitioner contends needs further factual development;
- (2) with respect to each claim or sub-claim identified in #1, (i) describe with specificity the facts sought to be developed; (ii) identify the specific exhibit(s) Petitioner contends demonstrate or support the existence of each fact sought to be developed; and (iii) explain why such fact(s) and exhibit(s) are relevant with respect to each claim or sub-claim;
- (3) with respect to each exhibit and each fact identified in #2, explain in complete detail why such exhibit(s) and such fact(s) sought to be developed were not developed in state court;
- (4) with respect to each exhibit and each fact identified in #2, explain in complete detail why the failure to develop such exhibit(s) and such fact(s) in state court was not the result of lack of diligence, in accordance with the Supreme Court's decision in *Williams v. Taylor*, 529 U.S. 420 (2000);

Any motion for evidentiary hearing shall further address:

(5) with respect to each claim or sub-claim identified in #1, explain how the factual allegations, if proved, would entitle Petitioner to relief; and

(6) with respect to each claim or sub-claim identified in #1, whether the state court trier of fact reliably found the relevant facts after a full and fair hearing. See Jones v. Wood, 114 F. 3d 1002, 1010 (9th Cir. 1997).

Any motion for evidentiary development that is filed prior to the filing of Respondents' Answer or that fails to address the above-listed requirements will be summarily denied. If a motion is filed, a response or reply thereto, if any, shall be filed in accordance with Local Rule 1.10(c) and (d), respectively.

## VI. Miscellaneous

In addition to the requirements of Local Rule 1.9, the following shall apply to any pleading filed in this matter:

(1) The parties shall not include photographs, charts or graphs in the body of any pleading. Any such exhibit must be contained within an appendix to an

appropriate pleading (i.e., a motion for evidentiary development).

(2) The parties shall not refer to either party by informal first name only. All references to a party shall be by last name, by governmental name (i.e., "State") or by formal title, such as "Petitioner" or "Respondents."

4           **IT IS FURTHER ORDERED** that this case, having been randomly reassigned, by  
5 lot, to Judge Frank R. Zapata, pursuant to Rule 1.2(e) of the Local Rules of Practice, shall  
6 be redesignated as No. CV 03-605-TUC-FRZ.

7           **IT IS FURTHER ORDERED** that the Clerk of Court forward a copy of the Petition  
8 for Writ of Habeas Corpus, the Order Staying Execution, and this Order to Petitioner's  
9 counsel.

10 **IT IS FURTHER ORDERED** that a copy of the Petition for Writ of Habeas Corpus  
11 and this Order be served by the Clerk of Court upon Respondents Dora Schriro and Charles  
12 Goldsmith and upon Kent Cattani, Assistant Arizona Attorney General, by certified mail  
13 pursuant to Rule 4, Rules Governing Section 2254 Cases.

14       **IT IS FURTHER ORDERED** that the Clerk of Court forward a copy of this Order  
15 to Petitioner.

DATED this 23<sup>rd</sup> day of December, 2003.

~~CINDY K. JORGENSEN~~  
United States District Judge