

No.

23-5976

ORIGINAL

FILED

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SUPREME COURT, U.S.

IN THE  
SUPREME COURT OF THE UNITED STATES

BRIAN HEATH DAVIS –PETITIONER

vs.

RANDY GIBBS, et. al –RESPONDENT(S)

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The petitioner also asks leave to file the attached for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

Petitioner has been granted leave to proceed *in forma pauperis* in the following court(s): Eighth Circuit United States District Court For The Southern District Of Iowa, a copy of the order of appointment is appended.

Brian Heath Davis

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OFFICE OF THE CLERK  
SUPREME COURT, U.S.

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF IOWA  
CENTRAL DIVISION

BRIAN HEATH DAVIS,

Petitioner,

vs.

RANDY GIBBS / KRIS KARBERG,

Respondent.

**No. 4:21-cv-00176-JEG**

**INITIAL REVIEW ORDER**

Brian Heath Davis filed this pro se petition for writ of federal habeas corpus pursuant to 28 U.S.C. § 2254. Davis challenges his Fremont County, Iowa conviction for first-degree murder. ECF No. 1 at 1. Davis requests appointment of an attorney to assist him in presenting his case. ECF No. 2.

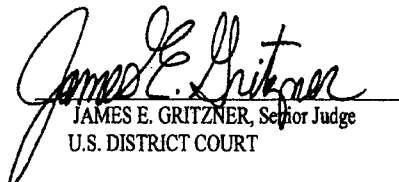
If it plainly appears from the face of the petition and any exhibits annexed to it that Petitioner is not entitled to relief, the Court shall summarily dismiss the petition; otherwise, the Respondent shall be ordered to file an answer to the petition, and further proceedings shall be had. 28 U.S.C. § 2254; Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts. It does not plainly appear that Petitioner is not entitled to any relief.

The Clerk shall issue service of process to Respondent. By no later than August 30, 2021, Respondent shall file an answer conforming with the requirements of Rule 5 of the Rules Governing Section 2254 cases in the United States District Court. Davis' request to proceed in forma pauperis (ECF No. 3) is GRANTED.

Davis' request for appointment of counsel is GRANTED. ECF No. 2. *See Morris v. Dormire*, 217 F.3d 556, 558 (8th Cir. 2000) (explaining Court's discretionary power to appoint counsel in habeas proceedings). The Clerk of Court is directed to find counsel to represent Petitioner using the Court's customary procedure.

**IT IS SO ORDERED.**

Dated this 24th day of June, 2021.

  
JAMES E. GRITZNER, Senior Judge  
U.S. DISTRICT COURT