

No. _____

OCTOBER TERM, 2023
In the
Supreme Court of the United States

Robert Ybarra, Jr., Petitioner,

Petitioner,

v.

William Gittere, et al., Respondents.
Respondents.

On Petition for Writ of Certiorari to the
United States Court of Appeals
For the Ninth Circuit

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

CAPITAL CASE

Rene Valladares
Federal Public Defender, District of Nevada
Randolph M. Fiedler
Counsel of Record
Hannah Nelson
Assistant Federal Public Defenders
411 E. Bonneville Ave., Ste. 250
Las Vegas, NV 89101
(702) 388-6577
(702) 388-5819 (fax)

Counsel for Petitioner

Pursuant to Supreme Court Rule 39.1, Petitioner Robert Ybarra requests leave to file the attached Petition for Writ of Certiorari without prepayment of costs and to proceed *in forma pauperis*. Ybarra has been granted leave to do so in the following state and federal courts: United States District Court, District of Nevada, for federal habeas proceedings; Seventh Judicial District Court of Nevada for trial and post-conviction proceedings. Ybarra has provided the information in support of this Motion as stated in Exhibit 1.

Dated this 9th day of February, 2024.

/s/ Randolph M. Fiedler

Randolph M. Fiedler
Assistant Federal Public Defender

/s/ Hannah Nelson

Hannah Nelson
Assistant Federal Public Defender

EXHIBIT 1

EXHIBIT 1

U.S. DISTRICT COURT
DISTRICT OF NEVADA
ENTERED & SERVED
JUN 20 2000
CLERK, U.S. DISTRICT COURT

FILED
19 JUN 19 PM 2:02
BY: [Signature]

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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ROBERT YBARRA, JR.,)
)
 Petitioner,)
)
 vs)
)
 E.K. McDANIEL, et al.,)
)
 Respondents)

Case No. CV-N-00-233-ECR(RAM)

ORDER GRANTING
IN FORMA PAUPERIS
AFTER PAYMENT OF FILING FEE

Petitioner has submitted a motion for leave to proceed *in forma pauperis* and a petition for writ of habeas corpus, in which he challenges the validity of the state court conviction and sentence of death. Based on the information concerning Petitioner's financial status, he does not meet the requirements for leave to proceed *in forma pauperis* without payment of the requisite filing fee, but should be granted *in forma pauperis* status regarding subsequent fees and costs.

IT IS THEREFORE **ORDERED** that the motion for leave to proceed *in forma pauperis* is **DENIED** regarding waiver of the filing fee, but **GRANTED** regarding subsequent fees and costs.

IT IS FURTHER **ORDERED** that Petitioner shall have thirty (30) days from the date this order is **ENTERED** in which to have the full \$5 filing fee sent to the Clerk. The Clerk shall send to Petitioner two copies of this order. Petitioner is ordered to make the necessary arrangements to have one copy of this order attached to the check in the amount of the full \$5 filing fee. Petitioner's failure to follow these instructions may result in the dismissal of this action.

Dated this 19 day of June 2000.

Edward C. Reed.
UNITED STATES DISTRICT JUDGE

FILED
JUL 28 11:05 AM '00
[Signature]

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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ROBERT YBARRA, JR.,)	
)	
Petitioner,)	Case No. CV-N-00-233-ECR(RAM)
)	
vs)	
)	
E.K. McDANIEL, et al.,)	<u>ORDER APPOINTING COUNSEL</u>
)	<u>IN A DEATH PENALTY ACTION</u>
Respondents)	

The record now reflects (#6) that petitioner has paid the previously ordered (#5) filing fee. Accordingly, the motion (#2) for leave to file a longer than normal petition shall be granted and the petition shall be filed.

Petitioner's motion for leave to proceed *in forma pauperis* shows that petitioner lacks the resources necessary to employ counsel to prosecute this habeas corpus proceeding in which petitioner is attacking the validity of his conviction and sentence of death. Therefore, petitioner named above being financially unable to employ counsel, and because the interests of justice so require, the Federal Public Defender for the District of Nevada shall be directed to represent, or locate counsel to represent, petitioner.

If the Federal Public Defender does not directly represent petitioner in these proceedings, then said entity shall provide a copy of the entire file in this action to counsel who agrees to undertake the representation of petitioner. Said counsel shall file a request for appointment as counsel with the

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1 court within ten (10) days after agreeing to undertake the representation. The request shall show that
2 counsel: (1) meets the requirements of 21 U.S.C. § 848q(6) or (7); (2) will dedicate the time necessary
3 to represent the petitioner in a timely fashion in this death penalty action with due consideration to the
4 seriousness of the possible penalty and to the unique and complex nature of the litigation; and (3) will
5 represent petitioner in all future federal proceedings in this court relating to this matter (including
6 subsequent actions) and appeals therefrom, pursuant to 21 U.S.C. § 848q(8), until allowed to withdraw.

7 IT IS THEREFORE **ORDERED** that the motion (#2) for leave to file a longer than
8 normal petition is GRANTED. The Clerk shall FILE the proposed petition attached thereto, and serve
9 a copy on respondents by certified mail. Respondents shall not file any response to the petition until
10 further ordered.

11 IT IS FURTHER **ORDERED** that the Federal Public Defender for the District of Nevada
12 shall have thirty (30) days to undertake direct representation of petitioner or to locate counsel to
13 represent petitioner in these proceedings. That individual shall then file a request for appointment as
14 counsel with the court within ten (10) days after agreeing to undertake the representation.

15 Dated this 28 day of July, 2000.

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17 UNITED STATES DISTRICT JUDGE
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 Reno, NV 89501

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