

No. _____

In the
Supreme Court of the United States

TONY BARKSDALE,

Petitioner,

v.

ATTORNEY GENERAL, STATE OF ALABAMA, et al.,

Respondent.

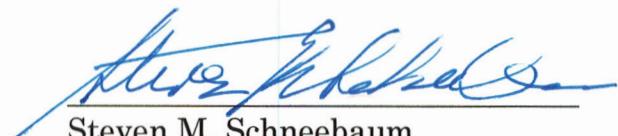
MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

Petitioner Tony Barksdale respectfully asks leave to file the attached Petition for a Writ of Certiorari without prepayment of costs, and to proceed *in forma pauperis*.

Petitioner, a prisoner under sentence of death at Holman Correctional Facility in Atmore, Alabama, was granted leave to proceed *in forma pauperis* in the proceedings below, before the United States District Court for the Middle District of Alabama and the United States Court of Appeals for the Eleventh Circuit.

Petitioner's declaration in support of this Motion is attached hereto.

Executed on February 13, 2025, at Washington, D.C.



Steven M. Schneebaum
Counsel of Record for Petitioner

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**AFFIDAVIT ACCOMPANYING MOTION
FOR PERMISSION TO APPEAL IN FORMA PAUPERIS**

Affidavit in Support of Motion

I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury under United States laws that my answers on this form are true and correct. (28 U.S.C. § 1746; 18 U.S.C. § 1621.)

Instructions

Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write in that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.

Signed:



Date:

1-28-25

My issues on appeal are:

1. Does the practice by which State court judges in habeas corpus proceedings adopt verbatim every single draft order presented by the prosecution, including the proposed findings of fact and conclusions of law following an evidentiary proceeding, constitute due process of

law as guaranteed by the Fifth Amendment?

2. Did the Eleventh Circuit misconstrue this Court's guidance in *Buck v. Davis*, 580 U.S. 100 (2017), when it denied a Certificate of Appealability on the foregoing issue, on the basis that a reasonable jurist might **agree** with the resolution of his constitutional claim below, when the applicable test for "debatability" is whether any such judge could sensibly **disagree** with it?
3. Do the failures of defense counsel in a capital trial to perform **any** meaningful investigation, or to develop a defense case for reduced culpability or mitigation of sentence, satisfy this Court's tests for effective assistance of counsel as articulated in *Strickland v. Washington*, 466 U.S. 668 (1984); *Williams v. Taylor*, 529 U.S. 362 (2000); *Wiggins v. Smith*, 539 U.S. 510 (2003); *Rompilla v. Beard*, 545 U.S. 374 (2005); and *Andrus v. Texas*, 590 U.S. ___, 140 S.Ct. 1875 (2020)?

1. *For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.*

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$0	\$0	\$0	\$0
Self-employment	\$0	\$0	\$0	\$0
Income from real property (such as rental income)	\$0	\$0	\$0	\$0
Interest and dividends	\$0	\$0	\$0	\$0
Gifts	\$	\$	\$	\$
Alimony	\$0	\$0	\$0	\$0
Child support	\$0	\$0	\$0	\$0
Retirement (such as social security, pensions, annuities, insurance)	\$0	\$0	\$0	\$0
Disability (such as social security, insurance payments)	\$0	\$0	\$0	\$0

Unemployment payments	\$0	\$0	\$0	\$0
Public-assistance (such as welfare)	\$0	\$0	\$0	\$0
Other (specify):	\$	\$	\$	\$
Total monthly income:	\$	\$	\$	\$

2. *List your employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)*

Employer	Address	Dates of employment	Gross monthly pay
None			\$
			\$
			\$

3. *List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)*

Employer	Address	Dates of employment	Gross monthly pay
None (I have no spouse)			\$
			\$
			\$

4. *How much cash do you and your spouse have? \$ _____ A statement of my prison account, showing recent receipts (from friends and family), withdrawals (for toiletries and incidentals), and current balance is attached.*

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial Institution	Type of Account	Amount you have	Amount your spouse has

None		\$	\$0
		\$	\$0
		\$	\$0

If you are a prisoner seeking to appeal a judgment in a civil action or proceeding, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

5. *List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.*

Home	Other real estate	Motor vehicle #1
(Value) None	(Value) None	(Value) None
		Make and year:
		Model:
		Registration #:

Motor vehicle #2	Other assets	Other assets
(Value) None	(Value) \$	(Value) \$
Make and year:		
Model:		
Registration #:		

6. *State every person, business, or organization owing you or your spouse money, and the amount owed.*

None.

7. *State the persons who rely on you or your spouse for support.*

Name [or, if under 18, initials only]	Relationship	Age
Not applicable		

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.

	You	Your Spouse
Rent or home-mortgage payment (include lot rented for mobile home)	\$0	\$N//A
Are real estate taxes included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Is property insurance included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$0	\$
Home maintenance (repairs and upkeep)	\$0	\$
Food	\$	\$
Clothing	\$0	\$
Laundry and dry-cleaning	\$0	\$
Medical and dental expenses	\$0	\$
Transportation (not including motor vehicle payments)	\$0	\$
Recreation, entertainment, newspapers, magazines, etc.	\$	\$
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's:	\$0	\$
Life:	\$0	\$
Health:	\$0	\$
Motor vehicle:	\$0	\$
Other:	\$0	\$
Taxes (not deducted from wages or included in mortgage payments) (specify):	\$0	\$
Installment payments		

Motor Vehicle:	None	\$
Credit card (name):	None	\$
Department store (name):	None	\$
Other:	None	\$
Alimony, maintenance, and support paid to others	\$0	\$
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$0	\$
Other (specify):	\$0	\$
Total monthly expenses:	\$	\$

9. *Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?*

[] Yes [x] No If yes, describe on an attached sheet.

10. *Have you spent — or will you be spending — any money for expenses or attorney fees in connection with this lawsuit?* [] Yes [x] No

If yes, how much? \$ _____

11. *Provide any other information that will help explain why you cannot pay the docket fees for your appeal.*

I am imprisoned on Death Row at Holman Correctional Facility in Atmore, Alabama.

12. *State the city and state of your legal residence.*

Atmore, Alabama

Your daytime phone number: (251) 368-8173 (this is the prison switchboard)

Your age: 47 *Your years of schooling:* through GED

Last four digits of your social-security number: 8600

Return to:
(N-5)

Alabama Department of Corrections
Average Inmate Deposit Balances for BARKSDALE, TONY AIS# 0000Z611

	Average Balance	Gross Deposits
12/31/2024	\$3.36	\$0.00
11/30/2024	\$3.36	\$0.00
10/31/2024	\$3.36	\$0.00
09/30/2024	\$3.36	\$0.00
08/31/2024	\$3.36	\$0.00
07/31/2024	\$3.36	\$0.00
06/30/2024	\$3.36	\$0.00
05/31/2024	\$3.36	\$0.00
04/30/2024	\$3.36	\$0.00
03/31/2024	\$3.36	\$0.00
02/29/2024	\$3.36	\$0.00
01/31/2024	\$23.35	\$200.00
	\$5.03	\$200.00

I certify that this is a true and correct copy of inmate Barksdale's average balance and gross deposits.

Bianca McBride

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