

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

DON WILLIAM DAVIS, Petitioner

v.

STATE OF ARKANSAS, Respondent

**ON PETITION FOR A WRIT OF CERTIORARI
TO THE ARKANSAS SUPREME COURT**

MOTION TO PROCEED IN FORMA PAUPERIS

Petitioner, Don William Davis, pursuant to Rule 39 of the Rules of the Supreme Court of the United States, respectfully requests leave to file the attached Petition for Writ of Certiorari to the Arkansas Supreme Court without prepayment of costs and to proceed in forma pauperis.

Petitioner was declared indigent by the Benton County Circuit Court prior to trial in 1991 and proceeded in forma pauperis in all subsequent proceedings in state court. On March 20, 2017, after the death of Mr. Davis's prior appointed habeas counsel, the United States District Court for the Western District of Arkansas appointed the Office of the Federal Public Defender for the Eastern District of Arkansas to represent Mr. Davis under 18 U.S.C. § 3599(a)(2). Thereafter, the Arkansas Supreme Court granted the Federal Public Defender for the Eastern District of Arkansas permission to represent Mr. Davis in his motion to recall the direct-appeal mandate without payment of fees.

In support of this motion, both the federal district court appointment order and the order of the Arkansas Supreme Court recognizing the federal defender as appointed counsel are attached to this motion.

For these reasons, Petitioner respectfully requests that this Court grant him leave to proceed in forma pauperis in this Court.

Respectfully submitted,

JENNIFFER HORAN
FEDERAL DEFENDER

/s/ April R. Golden
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Counsel for Petitioner

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

DON WILLIAM DAVIS

PETITIONER

V.

CASE NO. 01-5188

WENDY KELLEY¹, Director,
Arkansas Department of Correction

RESPONDENT

ORDER

The above referenced matter comes on for this Court's consideration of the **Application to Substitute Deceased Counsel and for Appointment of Federal Habeas Corpus Counsel Under 18 U.S.C. § 3599(a)(2) (Doc. 44)**. The Court, being well and sufficiently advised, finds and orders that the motion should be **granted** and that, pursuant to McFarland and 18 U.S.C. § 3599(a)(2), the Office of the Federal Public Defender for the Eastern District of Arkansas is appointed to represent Don William Davis in this proceeding under 28 U.S.C. § 2254 as contemplated by the Criminal Justice Act Plan adopted by this Court and in any and all matters dealing with the Respondent's effort to carry out his execution.

IT IS SO ORDERED this 20th day of March, 2017.

/s/ Susan O. Hickey
SUSAN O. HICKEY
UNITED STATES DISTRICT JUDGE

¹ Wendy Kelley was officially named the Director of the Arkansas Department of Corrections on January 13, 2015. As successor in office, Ms. Kelley is automatically substituted as a party pursuant to Federal Rule of Civil Procedure 25(d). The Clerk of the Court is directed to amend the docket sheet accordingly.

STATE OF ARKANSAS,)
) **SCT.**
SUPREME COURT)

CC: SCOTT W. BRADEN
DEBORAH SALLINGS
KELLY FIELDS, SENIOR ASSISTANT ATTORNEY GENERAL
HON. ROBIN F. GREEN, CIRCUIT JUDGE