

No. _____

In the Supreme Court of the United States
October Term, 2019

RANDY ETHAN HALPRIN,
Petitioner,

v.

LORIE DAVIS, DIRECTOR,
TEXAS DEPARTMENT OF CRIMINAL JUSTICE,
CORRECTIONAL INSTITUTIONS DIVISION,
Respondent.

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

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

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**Counsel of Record*

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

Petitioner, Randy Ethan Halprin, seeks leave to file the enclosed Petition for Writ of Certiorari without prepayment of costs and to proceed *in forma pauperis* in accordance with Supreme Court Rule 39, and Title 18, U.S.C. § 3006A(d)(6).

The United States District Court for the Northern District of Texas found Mr. Halprin could proceed *in forma pauperis*, and appointed counsel Paul Mansur pursuant to 18 U.S.C. § 3599(a)(2) on September 27, 2017. App. A. The United State Court of Appeals for the Fifth Circuit appointed the Federal Public Defender for the Western District of Texas as co-counsel under the same provision on February 8, 2018. App. B.

The filing of this petition is the continuation of counsel's representation of Mr. Halprin under the 18 U.S.C. § 3599(a)(2) appointment. *See* 18 U.S.C. § 3599(e) (“[e]ach attorney so appointed shall represent the defendant throughout every subsequent stage of available judicial proceedings, including ... applications for writ of certiorari to the Supreme Court of the United States”). In accordance with Supreme Court Rule 39, no affidavit declaring Mr. Halprin's indigency is required.

WHEREFORE, Petitioner, Randy Ethan Halprin, seeks leave to proceed *in forma pauperis*.

Respectfully submitted this 2nd day of October 2019,

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APPENDIX

- A. Order Appointing Co-Counsel, *Halprin v. Davis*, No. 03:13-cv-1535-L (N.D. Tex. Sept. 27, 2017)
- B. Order, *Halprin v. Davis*, No. 17-70026 (5th Cir. Feb. 8, 2018)

APPENDIX A

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

RANDY ETHAN HALPRIN,	§	
	§	
Petitioner,	§	
	§	
v.	§	Civil Action No. 3:13-CV-1535-L
	§	
LORIE DAVIS, Director,	§	(Death Penalty Case)
Texas Department of Criminal Justice	§	
Correctional Institutions Division,	§	
	§	
Respondent.	§	

ORDER APPOINTING CO-COUNSEL

On April 5, 2017, Randy Ethan Halprin (“Halprin”) filed a pro se motion to appoint co-counsel in this case (Doc. 36). On April 10, 2017, the motion was denied in part, and appointed counsel was directed to file a reply (Order, Doc. 39). On May 12, 2017, appointed counsel was directed to further clarify his response (Order, Doc. 41). On May 28, 2017, appointed counsel filed his ex parte response indicating, in part, that attorney Paul Mansur is willing to serve as co-counsel in this case (Doc. 42). On July 17, 2017, Respondent Lorie Davis filed a response in opposition (Doc. 47).

Having reviewed the motion and responses, the court finds that Petitioner is entitled to the appointment of counsel by the provisions of 18 U.S.C. § 3599(a)(2) and that the circumstances of this case allow him to proceed *in forma pauperis*. See *McFarland v. Scott*, 512 U.S. 849, 855-58 (1994). The court further finds that an adequate inquiry has been made into the matters raised, that no violation of any ethical duty by appointed counsel appears to have occurred, and that any problems in communications between Halprin and his appointed counsel can be resolved with the appointment of co-counsel.

The court further finds that attorney **Paul Mansur** possesses the background, knowledge, and experience to enable him to represent Petitioner with due consideration to the seriousness of the possible penalty and the unique and complex nature of the litigation, and he is qualified and willing to accept this appointment as co-counsel to assist lead counsel.

This appointment is made under 18 U.S.C. § 3599(e), which provides, in part:

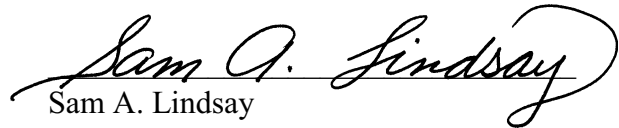
(e) Unless replaced by similarly qualified counsel upon the attorney's own motion or upon motion of the defendant, each attorney so appointed shall represent the defendant throughout every subsequent stage of available judicial proceedings, including pretrial proceedings, trial, sentencing, motions for new trial, appeals, applications for writ of certiorari to the Supreme Court of the United States, and all available post-conviction process, together with applications for stays of execution and other appropriate motions and procedures, and shall also represent the defendant in such competency proceedings and proceedings for executive or other clemency as may be available to the defendant.

Appointed counsel are entitled to compensation (currently at the rate of \$185 per hour) in accordance with Volume VII, Part A, Chapter 6, of the *Guide to Judiciary Policy*, which counsel is directed to read along with the instructions for forms CJA 30 and CJA 31 to ensure proper compensation for time and expenses incurred herein, and the presumptive limits contained in the *Special Procedures for Reviewing Attorney Compensation Requests in Death Penalty Cases* by the Judicial Council of the Fifth Circuit. Counsel shall be entitled to interim payments for services rendered in this action.

A copy of this order and CJA 30 forms shall be provided to appointed co-counsel at the following address:

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It is so ordered this 27th day of September, 2017.


Sam A. Lindsay
United States District Judge

APPENDIX B

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 17-70026

RANDY ETHAN HALPRIN,

Petitioner - Appellant

v.

LORIE DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL
JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,

Respondent - Appellee

Appeal from the United States District Court
for the Northern District of Texas

O R D E R:

IT IS ORDERED that the attorney motion to appoint the Federal Public Defender for the Western District of Texas, Capital Habeas Unit as co-counsel is GRANTED.

Dated: 2-8-2018

LYLE W. CAYCE, CLERK
United States Court of Appeals
for the Fifth Circuit
/s/ Lyle W. Cayce

ENTERED AT THE DIRECTION OF THE COURT