

Capital Case

Case No. 21-511

October Term, 2021

**IN THE
SUPREME COURT OF THE UNITED STATES**

TIM SHOOP, WARDEN, PETITIONER

VS.

RAYMOND TWTFORD, RESPONDENT

**RESPONDENT'S MOTION FOR LEAVE TO PROCEED *IN FORMA
PAUPERIS***

Respondent Raymond Twyford moves this Court for leave to proceed *in forma pauperis* under Rule 39 so that he may file a Brief in Opposition of a Petition for Writ of Certiorari. Mr. Twyford is indigent, and he is incarcerated on Ohio's death row. Counsel was appointed for him for federal habeas review under The Criminal Justice Act, 18 U.S.C. 3599.

Respectfully submitted,

MICHAEL J. BENZA
17850 Geauga Lake Road
Chagrin Falls, Ohio 44022
(216) 319-1247
Michael.Benza@case.edu

**Counsel of Record

STEPHEN C. NEWMAN
FEDERAL PUBLIC DEFENDER

/s/ Alan C. Rossman
ALAN C. ROSSMAN
Assistant Federal Public Defender

SHARON A. HICKS
Assistant Federal Public Defender
Federal Public Defenders Office
Capital Habeas Unit

1660 W. Second Street, Suite 750
Cleveland, Ohio 44113
(216) 522-4856;(216) 522-1951 fax
Alan_Rossman@fd.org; Sharon_Hicks@fd.org

Counsel for Respondent Raymond Twyford

No. 21-511

IN THE
SUPREME COURT OF THE UNITED STATES

TIM SHOOP, WARDEN — PETITIONER

VS.

RAYMOND TWYFORD — RESPONDENT(S)

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The respondent asks leave to file the attached brief in opposition without prepayment of costs and to proceed *in forma pauperis*.

Please check the appropriate boxes:

Respondent has previously been granted leave to proceed *in forma pauperis* in the following court(s):

U.S. District Court, Southern District of Ohio, Seventh Appellate District, Sixth Circuit Court of Appeals, Supreme Court of the United States, Jefferson County Court of Common Pleas

Respondent has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

Respondent's affidavit or declaration in support of this motion is attached hereto.

Respondent's affidavit or declaration is **not** attached because the court below appointed counsel in the current proceeding, and:

The appointment was made under the following provision of law: _____, or

a copy of the order of appointment is appended.

(Signature)

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

RAYMOND A. TWYFORD, III,

Petitioner,

v.

MARGARET BRADSHAW, Warden,

Respondent.

Case No. 2:03-cv-906

**JUDGE ALGENON L. MARBLEY
Magistrate Judge Norah McCann King**

ORDER

Petitioner, a prisoner sentenced to death by the State of Ohio, has pending before this Court a habeas corpus action under 28 U.S.C. § 2254. This matter is before the Court upon petitioner's motion for leave to withdraw and substitute counsel, (Doc. # 66), and petitioner's supplement in support of that motion. (Doc. # 68).

On January 28, 2008, one of petitioner's attorneys, Michael J. Benza, filed a motion for leave to withdraw as counsel in this matter due to his acceptance of an appointment to the faculty of Case Western Reserve University School of Law. (Doc. # 68). Mr. Benza requested that the Court appoint attorney Alan Rossman to serve as substitute counsel in this matter. On January 29, 2008, the Court issued an Order directing Mr. Benza to file a supplement to his motion to withdraw and substitute counsel. Specifically, the Court directed Mr. Benza to provide the Court with an articulation of Mr. Rossman's qualifications to serve as counsel in this matter, as well as an assurance that Mr. Rossman is willing to undertake petitioner's representation. (Doc. # 67).

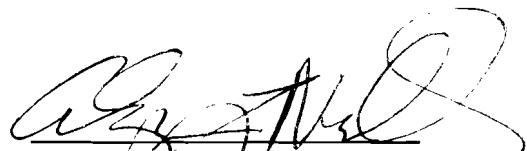
On February 1, 2008, Mr. Benza filed additional support for his motion to withdraw and substitute counsel. (Doc. # 68). According to Mr. Benza, Mr. Rossman is qualified to serve as counsel in this matter because he has extensive capital litigation experience in both state and

federal courts. Mr. Benza states that Mr. Rossman has been involved in capital litigation for more than 20 years and is certified by the Ohio Supreme Court to serve as lead trial and appellate counsel in capital cases. Additionally, Mr. Rossman is already familiar with petitioner's case because he represented petitioner in his state *Murnahan* proceedings.

For good cause shown, the Court **GRANTS** Mr. Benza's motion for leave to withdraw. Further, the Court **GRANTS** petitioner's motion to substitute Alan Rossman as counsel in this matter. Although the Court does not have before it a formal motion by Mr. Rossman indicating his availability and willingness to serve as counsel, the Court accepts Mr. Benza's representations that Mr. Rossman is available and willing to represent petitioner, and that co-counsel Mr. Mancino and petitioner are amenable to the substitution. The Court further finds that Mr. Rossman is qualified under the guidelines set forth in 18 U.S.C. § 3599(a)(2) to represent petitioner in this matter.

For the foregoing reasons, Petitioner's motion for leave to withdraw and substitute counsel (Doc. # 66) is **GRANTED**.

IT IS SO ORDERED.


ALGENON L. MARBLEY
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

RAYMOND A. TWYFORD, III,

Petitioner,

vs.

Civil Action 2:03-CV-906
Judge Marbley

MARGARET BRADSHAW, Warden,

Respondent.

ORDER

Petitioner's motion, Doc. No. 74, for reassignment of this case to the Capital Habeas Unit of the Office of the Federal Public defender for the Northern District Ohio, is **GRANTED**.

The Clerk will reflect this change on the docket.

June 10, 2008

s/Norah McCann King
Norah M^cCann King
United States Magistrate Judge

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

RAYMOND A. TWYFORD, III

Petitioner,

v.

MARGARET BRADSHAW, Warden,

Respondent.

Case No. 2:03cv906

DISTRICT JUDGE MARBLEY

Magistrate Judge Deavers

ORDER

Petitioner, a prisoner sentenced to death by the State of Ohio, has pending before this Court a habeas corpus action pursuant to 28 U.S.C. § 2254. This matter is before the Court on Attorney Paul Mancino, Jr.'s motion to withdraw as counsel for Petitioner and Petitioner's request that Attorney Michael J. Benza be appointed as substitute counsel. (ECF No. 94.)


This Court originally appointed counsel to represent Petitioner in these habeas proceedings pursuant to 21 U.S.C. § 848(q)(4)(B), which is now recodified at 18 U.S.C. § 3599(a)(2). On October 2, 2003, the Court appointed Attorneys Michael Benza and Paul Mancino, Jr., to serve as counsel for Petitioner. (ECF No. 12.) On January 1, 2008, Mr. Benza filed a motion to withdraw as counsel and requested the Court appoint Attorney Alan Rossman as substitute lead counsel. (ECF No. 66.) The Court granted Attorney Benza leave to withdraw and appointed Attorney Rossman of the Office of the Federal Public Defender, Northern District of Ohio, Capital Habeas Unit, as counsel for Petitioner. (ECF Nos. 70, 75.)

Attorney Mancino now represents to the Court that due to the current demands of his practice, he has "insufficient time and resources to properly and effectively commit to his continued representation of Mr. Twyford." (ECF No. 94, at PageID # 767.) Petitioner asks this

Court to permit Attorney Mancino to withdraw, and to once again appoint Attorney Benza as substitute counsel. Mr. Benza asserts he is “willing and able to return to this case.” (*Id.*) Counsel indicate that Petitioner has been informed of this potential change in counsel and has no objection to it. Additionally, Attorney Benza states he meets the requirements of 18 U.S.C. § 3599(d), has extensive experience representing death-sentenced prisoners in federal habeas proceedings, and is familiar with the facts and record of this case as he has previously represented Petitioner in these proceedings. (*Id.*) Attorney Benza further states that he is “on the faculty at Case Western Reserve University where he teaches in the areas of criminal law, criminal procedure, death penalty, and habeas corpus.” (*Id.*)

This Court has previously determined that Petitioner is entitled to the appointment of two attorneys, and that Attorney Benza is qualified to serve as counsel in this matter. For good cause shown, the Court hereby **GRANTS** Attorney Mancino’s motion for leave to withdraw. (ECF No. 94.) Further, and pursuant to 18 U.S.C. § 3599(a)(2), the Court **GRANTS** Petitioner’s motion to substitute Michael Benza as co-counsel in this matter.

IT IS SO ORDERED.


ALGENON L. MARBLEY
United States District Judge

Date: Oct 5, 2017