

Capital Case

Case No. _____

**In the
Supreme Court of the United States**

BENJAMIN ROBERT COLE, SR.,
Petitioner,
v.
THE STATE OF OKLAHOMA,
Respondent.

On Petition for a Writ of Certiorari to the
Oklahoma Court of Criminal Appeals

**MOTION FOR LEAVE TO PROCEED
*IN FORMA PAUPERIS***

Petitioner, Benjamin Cole, by and through his undersigned attorney, pursuant Supreme Court Rule 39.1 and Title 18, United States Code, Section 3006A(d)(7), respectfully moves this Honorable Court for leave to proceed *in forma pauperis* and for leave to file the attached Petition for Writ of Certiorari to the Oklahoma Court of Criminal Appeals without prepayment of fees. The courts below have appointed counsel for Petitioner, Benjamin Cole, an indigent party.

Petitioner was previously found indigent at trial and appellate proceedings in the District Court of Rogers County and in the Oklahoma Court of Criminal Appeals, thus, under S. Ct. Rule 39 and 18 U.S.C. § 3006A(d)(7), negating the requirement of an attached affidavit. *See* Order Appointing Counsel, *State v. Cole*, No. CF-2002-597 (Rogers County June 10, 2003); Order Determining Indigency and Appointing Oklahoma Indigent Defense System, *Cole v. State*, No. D-2004-1260 (Okla. Crim. App. Dec. 17, 2004); and Order appointing the Office of the Federal Public Defender, *Cole v. Sirmons*, No. CIV-08-328-CVE-PJC (N.D. Okla. June 3, 2008).

Respectfully submitted,

s/ Thomas D. Hird

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Dated this 22nd day of November, 2021