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In The Supreme Court of the United States

MICHAEL DAVID CARRUTH, Petitioner

VS.

JOHN Q. HAMM, Commissioner, Alabama Department
of Corrections, Respondent

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

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

Thomas Martele Goggans
Counsel of Record
Thomas M. Goggans
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Counsel for Petitioner

May 21, 2024

Petitioner Michael David Carruth respectfully requests leave to file the attached Petition for Writ of Certiorari without prepayment of costs and to otherwise proceed *in forma pauperis* pursuant to Rule 39.

Counsel for Petitioner Michael David Carruth was appointed to represent him by the United States District Court for the Middle District of Alabama and in the United States Court of Appeals for the Eleventh Circuit. (See attached)

/s/ Thomas Martele Goggans
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Counsel for Petitioner

May 21, 2024

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

MICHAEL DAVID CARRUTH,	)	
	)	
Petitioner,	)	
	)	
v.	)	CASE NO. 2:14-CV-1107-WKW-WC
	)	
BILLY SHARP,	)	
	)	
Respondent.	)	

ORDER

It is the ORDER, JUDGMENT AND DECREE of the court that

1. The Preliminary Litigation Budget submitted by counsel on March 13, 2015, shall be filed by the Clerk's Office *Under Seal* and a copy of this Order shall be enclosed therewith.

2. Pursuant to the Antiterrorism and Effective Death Penalty Act of 1996 ["AEDPA"], 21 U.S.C. § 848(q), *recodified at* 18 U.S.C. § 3599(a)(2), Thomas Martele Goggans shall be appointed as counsel for Petitioner. Accordingly, the Motion to Withdraw and to Appoint Counsel (Doc. # 2) and the Motion to Appoint Counsel (Doc. # 15) are GRANTED.

3. At least one of the appointed counsel shall sign all of the pleadings submitted on behalf of the Petitioner.

4. Based upon Mr. Goggans's experience in capital litigation in state and

federal courts, the court concludes that his time shall be compensated at the rate of \$181.00 per hour.

5. Petitioner's counsel shall submit claims for compensation and reimbursement of expenses on CJA Form 30, "Death Penalty Proceedings: Appointment of and Authority to Pay Court-Appointed Counsel."

6. Petitioner's counsel shall submit vouchers for compensation once each quarter, commencing on March 31, 2014, for the three months immediately preceding the submission.¹

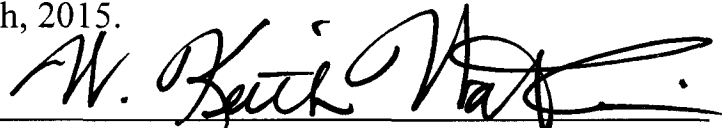
7. The Preliminary Litigation Budget submitted by Petitioner's counsel shall be approved, "subject to modification in light of facts and developments that emerge as the case proceeds," *Guide to Judiciary Policy*, vol. VII, pt. A, ch. 6 § 640.10, as a working document to the extent that it sets forth a division of time needed for anticipated work and the anticipated expenses. However, counsel is CAUTIONED and ADVISED that the budget request may not be exceeded without prior request for good cause shown. Moreover, counsel is ADVISED that, where the court determines that such services are reasonably necessary, "fees and expenses for investigative, expert, and other services are limited to \$7,500.00 . . . unless payment

¹ The voucher submitted in March 2015 shall include services rendered up to the date of submission.

in excess of that amount is certified by the court[.]” *Guide to Judiciary Policy*, vol. VII, pt. A, ch. 6 § 660.20.20(a). In addition, counsel is advised that CJA Form 31, titled “Death Penalty Proceedings: Ex Parte Request for Authorization and Voucher for Expert and Other Services” must be submitted for compensation for experts and reimbursement of related fees.²

8. Counsel is further ADVISED that it is the court’s desire for counsel to be conscientious and attentive to the monies spent in pursuing this case. However, cost-saving measures are not expected to detract from counsel vigorously representing Petitioner’s position in this court.

DONE this 16th day of March, 2015.


CHIEF UNITED STATES DISTRICT JUDGE

² Once payment for investigative, expert, and other services total \$7,500, then additional payments must be approved by the chief judge of the circuit. To the extent it is anticipated that the payments for investigative, expert, and other services will exceed the statutory maximum, advance approval should be obtained from the court and the chief judge of the circuit. *Guide to Judiciary Policy*, vol. VII, pt. A, ch. 6 § 660.20.20(c)–(d).

General Docket
United States Court of Appeals for the Eleventh Circuit

Court of Appeals Docket #: 22-13548
Nature of Suit: 3535 Habeas Corpus: Death Penalty
Michael David Carruth v. Commissioner, Alabama Department of Corrections
Appeal From: Middle District of Alabama
Fee Status: IFP Granted

Docketed: 10/20/2022
Termed: 03/01/2024

Case Type Information:
1) Private Civil - Prisoner
2) Death Penalty - State Habeas
3) -

Originating Court Information:
District: 1127-2 : 2:14-cv-01107-WKW-SMD
Civil Proceeding: W. Keith Watkins, Senior U.S. District Court Judge
Secondary Judge: Stephen M. Doyle, U.S. Magistrate Judge
Date Filed: 10/23/2014
Date NOA Filed:
10/19/2022

Prior Cases:
None

Current Cases:
None

MICHAEL DAVID CARRUTH

Appellant

Petitioner -

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versus

COMMISSIONER, ALABAMA DEPARTMENT OF CORRECTIONS

Appellee

Respondent -

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MICHAEL DAVID CARRUTH,

Petitioner - Appellant,

versus

COMMISSIONER, ALABAMA DEPARTMENT OF CORRECTIONS,

Respondent - Appellee.

10/20/2022	☐ <u>1</u> 250 pg, 1.32 MB	DEATH PENALTY APPEAL DOCKETED. Notice of appeal filed by Attorney Thomas Martele Goggans for Appellant Michael David Carruth on 10/19/2022. USDC motions pending: MOTION for Application for Certificate of Appealability doc.51 MOTION for Leave to Appeal in forma pauperis doc.53 filed on 10/19/2022. Fee Status: Fee Not Paid. No hearings to be transcribed. [Entered: 10/24/2022 03:03 PM]
10/20/2022	☐ <u>3</u> 3 pg, 118.3 KB	USDC order Granting appointment of counsel as to Appellant Michael David Carruth was filed on 03/16/2015. Docket Entry 22. Thomas Martele Goggans shall be appointed. [Entered: 10/24/2022 03:39 PM]
10/25/2022	☐ <u>4</u> 6 pg, 23.58 KB	Certificate of Interested Persons and Corporate Disclosure Statement filed by Attorney Thomas Martele Goggans for Appellant Michael David Carruth. On the same day the CIP is served, any filer represented by counsel must also complete the court's web-based stock ticker symbol certificate at the link here http://www.ca11.uscourts.gov/web-based-cip or on the court's website. See 11th Cir. R. 26.1-1(b). [22-13548] (ECF: Thomas Goggans) [Entered: 10/25/2022 01:01 PM]
10/25/2022	☐ <u>5</u> 2 pg, 68.21 KB	TRANSCRIPT INFORMATION FORM SUBMITTED by Attorney Thomas Martele Goggans for Appellant Michael David Carruth. No hearings. [22-13548] (ECF: Thomas Goggans) [Entered: 10/25/2022 01:22 PM]
10/27/2022	☐ <u>6</u> 1 pg, 22.39 KB	APPEARANCE of Counsel Form filed by Lauren Ashley Simpson for Commissioner, Alabama Department of Corrections. [22-13548] (ECF: Lauren Simpson) [Entered: 10/27/2022 12:44 PM]
11/02/2022	☐ <u>7</u> 2 pg, 72.47 KB	TRANSCRIPT INFORMATION form filed by Attorney Thomas Martele Goggans for Appellant Michael David Carruth. No hearings. [Entered: 11/02/2022 12:00 PM]
11/14/2022	☐ <u>8</u> 3 pg, 127.8 KB	USDC order granting IFP as to Appellant Michael David Carruth was filed on 11/09/2022. Docket Entry 62. [Entered: 11/14/2022 04:15 PM]
11/14/2022	☐ <u>9</u> 3 pg, 128.47 KB	USDC order granting COA as to the six issues listed above and otherwise is DENIED as to Appellant Michael David Carruth was filed on 11/09/2022. Docket Entry 61. [Entered: 11/14/2022 04:19 PM]
11/14/2022	☐ <u>10</u> 2 pg, 116.64 KB	Briefing Notice issued to Appellant Michael David Carruth. The appellant's brief is due on or before 12/27/2022. The appendix is due no later than 7 days from the filing of the appellant's brief. [Entered: 11/14/2022 04:21 PM]
11/17/2022	☐ <u>11</u> 5 pg, 35.31 KB	Certificate of Interested Persons and Corporate Disclosure Statement filed by Attorney Lauren Ashley Simpson for Appellee Commissioner, Alabama Department of Corrections. On the same day the CIP is served, any filer represented by counsel must also complete the court's web-based stock ticker symbol certificate at the link here http://www.ca11.uscourts.gov/web-based-cip or on the court's website. See 11th Cir. R. 26.1-1(b). [22-13548] (ECF: Lauren Simpson) [Entered: 11/17/2022 06:17 PM]
12/02/2022	☐ <u>12</u> 2 pg, 135.18 KB	CJA appointment issued by this court to Attorney Thomas Martele Goggans for Appellant Michael David Carruth. [Entered: 12/02/2022 10:14 AM]
12/14/2022	☐ <u>13</u> 8 pg, 32.34 KB	TIME SENSITIVE MOTION for extension of time to file appellant's brief to 01/26/2023 filed by Michael David Carruth. Motion is Unopposed. [13] [22-13548] (ECF: Thomas Goggans) [Entered: 12/14/2022 10:16 AM]
12/16/2022	☐ <u>14</u> 2 pg, 167.31 KB	ORDER: Motion for extension to file appellant brief filed by Appellant Michael David Carruth is GRANTED. [13] Appellants brief due on 01/26/2023, with the appendix due seven (7) days from the filing of the brief. CRW (See attached order for complete text) [Entered: 12/16/2022 11:00 AM]
01/26/2023	☐ <u>15</u> 61 pg, 423.02 KB	Appellant's brief filed by Michael David Carruth. [22-13548] (ECF: Thomas Goggans) [Entered: 01/26/2023 12:38 PM]
01/30/2023	☐ <u>17</u>	Received 4 paper copies of E Initial Brief, filed by Appellant Michael David Carruth. [Entered: 02/03/2023 01:44 PM]
02/02/2023	☐ <u>16</u> 742 pg, 10.75 MB	Appendix filed [4 VOLUMES] by Appellant Michael David Carruth. [22-13548] (ECF: Thomas Goggans) [Entered: 02/02/2023 01:19 PM]
02/06/2023	☐ <u>18</u>	Received paper copies of EAppendix filed by Appellant Michael David Carruth. 4 VOLUMES - 2 COPIES [Entered: 02/08/2023 10:52 AM]
02/24/2023	☐ <u>19</u> 70 pg, 230.6 KB	Appellee's Brief filed by Appellee Commissioner, Alabama Department of Corrections. [22-13548] (ECF: Lauren Simpson) [Entered: 02/24/2023 02:41 PM]
02/27/2023	☐ <u>20</u>	Received 7 paper copies of EBrief, filed by Appellee Commissioner, Alabama Department of Corrections. [Entered: 03/01/2023 11:42 AM]
03/17/2023	☐ <u>21</u> 13 pg, 209.09 KB	Reply Brief filed by Appellant Michael David Carruth. [22-13548] (ECF: Thomas Goggans) [Entered: 03/17/2023 01:26 PM]
03/21/2023	☐ <u>22</u>	Received 4 paper copies of E Reply Brief, filed by Appellant Michael David Carruth. [Entered: 03/21/2023 02:19 PM]