

No. _____

In the Supreme Court of the United States

DONALD E. DEARDORFF,
Petitioner,

v.

TERRY RAYBON, WARDEN
Respondent.

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

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

Spencer J. Hahn
Counsel of Record
John Anthony Palombi
Eric C. Brown
Assistant Federal Defenders
FEDERAL DEFENDERS FOR THE
MIDDLE DISTRICT OF ALABAMA
817 South Court Street
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Counsel for Petitioner

Petitioner Donald E Deardorff asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

Petitioner is an indigent prisoner incarcerated in Alabama under sentence of death. Undersigned counsel was appointed by the United States District Court for the Southern District of Alabama to represent him in his habeas proceedings on October 10, 2017, and he was granted leave to proceed *in forma pauperis* on October 30, 2017. DE 8 in Attachment (endorsed order granting leave to proceed *in forma pauperis*). He was granted leave to proceed *in forma pauperis* on appeal to the Eleventh Circuit on May 10, 2023. DE 33 in Attachment. Counsel's appointment is authorized under 18 U.S.C § 3599(e) and 18 U.S.C. 3006A.

Respectfully submitted,

Spencer J. Hahn
Counsel of Record
John Anthony Palombi
Eric C. Brown
Assistant Federal Defenders
FEDERAL DEFENDERS FOR THE
MIDDLE DISTRICT OF ALABAMA
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Counsel for Petitioner

December 20, 2024

ATTACHMENT

**U.S. District Court
SOUTHERN DISTRICT OF ALABAMA (Mobile)
CIVIL DOCKET FOR CASE #: 1:17-cv-00450-JB-MU**

Deardorff v. Bolling
Assigned to: Chief District Judge Jeffrey U. Beaverstock
Referred to: Magistrate Judge P. Bradley Murray
Case in other court: 11th Circuit, 23-11589
Cause: Petition for Writ of Habeas Corpus (Death Penalty)

Date Filed: 10/05/2017
Date Terminated: 09/30/2022
Jury Demand: None
Nature of Suit: 535 Death Penalty - Habeas
Corpus
Jurisdiction: Federal Question

Petitioner

Donald E. Deardorff

represented by **John Palombi**
Federal Defender's Office
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Montgomery, AL 36104
334-834-2099
Email: john_palombi@fd.org
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Respondent

Jefferson S. Dunn
TERMINATED: 10/27/2017

represented by **Audrey K. Jordan**
Office of the Attorney General
State of Alabama
P. O. Box 300152
Montgomery, AL 36130-0152
334-353-4338
Email: ajordan@ago.state.al.us
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Respondent

Leon Bolling

represented by **Audrey K. Jordan**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Non-Party**John Q. Hamm**

represented by **Audrey K. Jordan**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
10/10/2017	<u>1</u>	PETITION for Writ of Habeas Corpus (<i>Death Penalty</i>), filed by Donald E. Deardorff. (Hahn, Spencer) (Additional attachment(s) added on 10/10/2017: # <u>1</u> Civil Cover Sheet) (tot). (Main Document 1 replaced w/redacted version on 10/12/2017) (tot). (Entered: 10/10/2017)
10/10/2017	<u>2</u>	MOTION for Leave to Proceed in forma pauperis by Donald E. Deardorff. (Hahn, Spencer) (Entered: 10/10/2017)
10/10/2017	<u>3</u>	MOTION to Appoint Counsel by Donald E. Deardorff. (Hahn, Spencer) (Entered: 10/10/2017)
10/10/2017		REFERRAL OF <u>1</u> Petition for Writ of Habeas Corpus, <u>2</u> MOTION for Leave to Proceed in forma pauperis and <u>3</u> MOTION to Appoint Counsel to Judge Granade. (srd) (Entered: 10/10/2017)
10/10/2017	4	ENDORSED ORDER, GRANTING <u>3</u> Motion for Appointment of Counsel. Signed by Senior Judge Callie V. S. Granade on 10/10/2017. (mab) (Entered: 10/10/2017)
10/13/2017	<u>5</u>	NOTICE of Appearance by Audrey K. Jordan on behalf of Jefferson S. Dunn (Jordan, Audrey) (Entered: 10/13/2017)
10/27/2017	<u>6</u>	ORDER, directing respondent to file his answer and entire record of this claim as set forth in Order no later than 12/12/2017, and petitioner to file his reply no later than 1/11/2018. Signed by Senior Judge Callie V. S. Granade on 10/27/2017. (copies to Respondent and Alabama Attorney General) (mab) (Entered: 10/27/2017)
10/27/2017	<u>7</u>	Supplemental MOTION for Leave to Proceed in forma pauperis <i>and prison account statement</i> by Donald E. Deardorff. (Attachments: # <u>1</u> Exhibit Prison Account Statement) (Hahn, Spencer) (Entered: 10/27/2017)
10/27/2017		MOTIONS REFERRED: <u>7</u> Supplemental MOTION for Leave to Proceed in forma pauperis <i>and prison account statement</i> Referred to Judge Callie V. S. Granade. (mab) (Entered: 10/27/2017)
10/30/2017	8	ENDORSED ORDER, GRANTING Petitioner's <u>2</u> Motion for Leave to Proceed in forma pauperis, and the <u>7</u> Supplemental Motion. Signed by Senior Judge Callie V. S. Granade on 10/30/2017. (mab) (Entered: 10/30/2017)
12/06/2017	<u>9</u>	MOTION for Extension of Time by Leon Bolling. (Jordan, Audrey) (Entered: 12/06/2017)
12/06/2017		MOTIONS REFERRED: <u>9</u> MOTION for Enlargement of time to respond to petition; Referred to Senior Judge Callie V. S. Granade. (mab) (Entered: 12/06/2017)
12/06/2017	10	ENDORSED ORDER, GRANTING <u>9</u> Motion for Enlargement. The deadline for Respondent to file its answer and entire record of claim is EXTENDED to 1/18/2018, and the deadline for Petitioner to file his reply is EXTENDED to 2/12/2018. Signed by Senior Judge Callie V. S. Granade on 12/6/2017. (mab) (Entered: 12/06/2017)

01/12/2018	11	MOTION for Extension of Time by Leon Bolling. (Jordan, Audrey) (Entered: 01/12/2018)
01/12/2018		MOTIONS REFERRED: 11 MOTION for Extension of Time Referred to Senior Judge Callie V. S. Granade. (mab) (Entered: 01/12/2018)
01/12/2018	12	ENDORSED ORDER, GRANTING 11 Motion for Extension of Time. The deadline for Respondent to file its answer and entire record of claim is EXTENDED to 2/20/2018, and the deadline for Petitioner to file his reply is EXTENDED to 3/22/2018. Signed by Senior Judge Callie V. S. Granade on 1/12/2018. (mab) (Entered: 01/12/2018)
02/20/2018	13	RESPONSE to 1 Petition for Writ of Habeas Corpus, by Leon Bolling. (Jordan, Audrey) (Entered: 02/20/2018)
02/20/2018	14	RESPONSE to 12 Order on Motion for Extension of Time, 6 Order to Answer,, Set Deadlines, (<i>Respondents's Habeas Corpus Checklist</i>) filed by Leon Bolling. (Jordan, Audrey) (Entered: 02/20/2018)
02/20/2018	15	NOTICE of Manual Filing of Indexed Record by Leon Bolling (Jordan, Audrey) (ELECTRONIC RECORD ADDED 5/30/2018: # 1 Vol. 1, # 2 Vol. 2, # 3 Vol. 3, # 4 Vol. 4, # 5 Vol. 5, # 6 Vol. 6, # 7 Vol. 7, # 8 Vol. 8, # 9 Vol. 9, # 10 Vol. 10, # 11 Vol. 11, # 12 Vol. 12, # 13 Vol. 13, # 14 Vol. 14, # 15 Vol. 15, # 16 Vol. 16, # 17 Vol. 17, # 18 Vol. 18, # 19 Vol. 19, # 20 Vol. 20, # 21 Vol. 21, # 22 Vol. 22, # 23 Vol. 23, # 24 Vol. 24, # 25 Vol. 25, # 26 Vol. 26, # 27 Vol. 27, # 28 Vol. 28, # 29 Vol. 29, # 30 Vol. 30, # 31 Vol. 31, # 32 Vol. 32, # 33 Vol. 33, # 34 Vol. 34, # 35 Vol. 35, # 36 Vol. 36, # 37 Vol. 37, # 38 Vol. 38, # 39 Vol. 39, # 40 Vol. 40, # 41 Vol. 41, # 42 Vol. 42, # 43 Vol. 43, # 44 Vol. 44, # 45 Vol. 45, # 46 Vol. 46, # 47 Vol. 47, # 48 Vol. 48, # 49 Vol. 49, # 50 Vol. 50, # 51 Vol. 51, # 52 Vol. 52, # 53 Vol. 53, # 54 Vol. 54, # 55 Vol. 55, # 56 Vol. 56, # 57 Vol. 57, # 58 Vol. 58, # 59 Vol. 59, # 60 Vol. 60, # 61 Vol. 61, # 62 Vol. 62, # 63 Vol. 63, # 64 Vol. 64, # 65 Vol. 65, # 66 Vol. 66, # 67 Vol. 67, # 68 Vol. 68, # 69 Vol. 69, # 70 Vol. 70, # 71 Vol. 71, # 72 Vol. 72, # 73 Vol. 73, # 74 Vol. 74, # 75 Vol. 75, # 76 Vol. 76, # 77 Vol. 77, # 78 Vol. 78) (tgw) (Entered: 02/20/2018)
02/20/2018		REFERRAL OF 13 Response to Habeas Petition, 14 Respondents' Habeas Corpus Checklist, 15 Notice of Manual Filing to Judge Granade. (tot) (Entered: 02/20/2018)
03/22/2018	16	REPLY to 13 Response to Habeas Petition filed by Donald E. Deardorff. (Hahn, Spencer) (Entered: 03/22/2018)
03/22/2018	17	MOTION for Briefing Schedule by Donald E. Deardorff. (Hahn, Spencer) (Entered: 03/22/2018)
03/22/2018		REFERRAL OF 16 Reply to Respondent's Answer, 17 MOTION for Briefing Schedule to Judge Granade. (tot) (Entered: 03/22/2018)
08/13/2018	18	This action has been transferred from the docket of Senior Judge Callie V. S. Granade and is now assigned to the docket of District Judge Jeffrey U. Beaverstock. Please use the letter suffix JB-MU after the case number on all future pleadings. (mab) (Entered: 08/13/2018)
09/12/2018		REFERRAL OF 17 MOTION for Briefing Schedule to Judge Beaverstock. (mbp) (Entered: 09/12/2018)
04/12/2019	19	ORDER denying 17 Motion for Briefing Schedule. Signed by District Judge Jeffrey U. Beaverstock on 4/12/2019. (tgw) (Entered: 04/12/2019)

09/30/2022	20	Order denying 1 Petition for Writ of Habeas Corpus, filed by Donald E. Deardorff as set out and judgment is entered in favor of the Respondent and against the Petitioner, Donald Deardorff. It is further recommended that any motion for Certificate of Appealability or for permission to appeal IFP be denied, except as to Claim 1.e., which is granted. Signed by Chief District Judge Jeffrey U. Beaverstock on 9/30/22. (cmj) (Entered: 09/30/2022)
09/30/2022	21	JUDGMENT entered dismissing this action with prejudice. Signed by Chief District Judge Jeffrey U. Beaverstock on 9/30/22. (cmj) (Entered: 09/30/2022)
10/28/2022	22	MOTION for Reconsideration of District Judge Order re 21 Judgment, 20 Order, filed by Donald E. Deardorff. (Hahn, Spencer) (Entered: 10/28/2022)
10/31/2022		MOTIONS REFERRED: 22 MOTION for Reconsideration of District Judge Order re 21 Judgment, 20 Order to Judge Beaverstock (cmj) (Entered: 10/31/2022)
12/01/2022	23	Order Setting Motion Deadline re: 22 MOTION for Reconsideration of District Judge Order re 21 Judgment, 20 Order, filed by Donald E. Deardorff. Responses due by 12/30/2022 Replies due by 1/30/2023. Motion to be taken under submission on 1/31/2023. Signed by Chief District Judge Jeffrey U. Beaverstock on 12/1/22. (cmj) (Entered: 12/01/2022)
12/29/2022	24	MOTION for Extension of Time to File Response/Reply as to 23 Order Setting Motion Deadline/Hearing, filed by John Q. Hamm. (Jordan, Audrey) (Entered: 12/29/2022)
12/29/2022		MOTIONS REFERRED: 24 MOTION for Extension of Time to File Response/Reply as to 23 Order Setting Motion Deadline/Hearing, to Judge Beaverstock (cmj) (Entered: 12/29/2022)
01/03/2023	25	ENDORSED ORDER granting 24 MOTION for Extension of Time to File Response/Reply as to 23 Order Setting Motion Deadline/Hearing. Responses due by 1/13/2023; Replies due by 2/13/2023. Motion Ripe Deadline set for 2/14/2023. Signed by Chief District Judge Jeffrey U. Beaverstock on 01/03/2023. (jil) (Entered: 01/03/2023)
01/13/2023	26	RESPONSE to Motion re: 22 MOTION for Reconsideration of District Judge Order re 21 Judgment, 20 Order, (<i>Respondents' Objection to Deardorff's Rule 59 Motion to Reconsider</i>) filed by John Q. Hamm. (Jordan, Audrey) (Entered: 01/13/2023)
01/17/2023		REFERRAL OF 26 Response to Motion, to Judge Beaverstock. (cjr) (Entered: 01/17/2023)
02/13/2023	27	REPLY to 26 Response to Motion, filed by Donald E. Deardorff. (Hahn, Spencer) (Entered: 02/13/2023)
02/13/2023		REFERRAL OF 27 Reply to Judge Beaverstock. (cmj) (Entered: 02/13/2023)
04/04/2023	28	ORDER denying 22 Motion for Reconsideration of District Judge Order filed by Donald E. Deardorff. Furthermore, Deardorff's request that a COA be issued on the presented claim(s) is denied. Signed by Chief District Judge Jeffrey U. Beaverstock on 4/4/23. (cmj) (Entered: 04/04/2023)
05/04/2023	29	NOTICE OF APPEAL as to 21 Judgment, 20 Order, by Donald E. Deardorff. (IFP.) (Hahn, Spencer) (Entered: 05/04/2023)
05/04/2023	30	MOTION for Leave to Appeal in forma pauperis filed by Donald E. Deardorff. (Hahn, Spencer) (Entered: 05/04/2023)
05/05/2023	31	Transmission of Notice of Appeal and Docket Sheet to US Court of Appeals re: 29 Notice of Appeal. No other appeals. Judge Appealed: Jeffrey U. Beaverstock. IFP Pending. (cjr) (Entered: 05/05/2023)

05/05/2023	32	Appeal Instructions re: 29 Notice of Appeal : The Civil Appeal Statement Form is available on the Internet at www.ca11.uscourts.gov . Transcript Information Form to be filed no later than 5/19/2023. (cjr) (Entered: 05/05/2023)
05/05/2023		MOTIONS REFERRED: 30 MOTION for Leave to Appeal in forma pauperis . Referred to DJ Beaverstock. (cjr) (Entered: 05/05/2023)
05/05/2023	35	NOTICE of Docketing Record on Death Penalty Appeal from USCA re 29 Notice of Appeal filed by Donald E. Deardorff. USCA Case Number 23-11589. (cjr) (Entered: 05/12/2023)
05/10/2023	33	ORDER re: 30 Motion for Leave to Appeal in forma pauperis. The Court's previous Order denying Deardorff's Petition granted IFP and a certificate of appealability as to claim 1.e. The Court stands by that decision and to the extent Petitioner seeks a different ruling beyond that claim, the motion is denied. Signed by Chief District Judge Jeffrey U. Beaverstock on 5/10/23. (cmj) (Entered: 05/10/2023)
05/10/2023	34	TRANSCRIPT INFORMATION FORM filed by Donald E. Deardorff re: 29 Notice of Appeal. (Hahn, Spencer) (Entered: 05/10/2023)
11/29/2023		Pursuant to F.R.A.P. 11(c), the Clerk of the District Court for the Southern District of Alabama certifies that the record is complete for purposes of this appeal re: 29 Notice of Appeal, Appeal No. 23-11589. The entire record on appeal is available electronically. (jmr) (Entered: 11/29/2023)
07/17/2024	36	JUDGMENT of USCA as to 29 Notice of Appeal filed by Donald E. Deardorff. AFFIRMED. USCA Case Number# 23-11589. (Mandate to issue at a later date). (jmr) (Entered: 07/17/2024)
08/30/2024	37	MANDATE of USCA re: 29 Notice of Appeal filed by Donald E. Deardorff Mandate issued 8/30/2024; USCA Case Number 23-11589. (jmr) (Entered: 08/30/2024)

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