

IN THE
Supreme Court of the United States

STEPHEN COREY BRYANT,

Petitioner,

v.

JOEL ANDERSON, INTERIM COMMISSIONER, SOUTH CAROLINA
DEPARTMENT OF CORRECTIONS; LYDELL CHESTNUT, DEPUTY WARDEN,
BROAD RIVER ROAD CORRECTIONAL INSTITUTION SECURE FACILITY,
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

MOTION TO PROCEED *IN FORMA PAUPERIS*

Petitioner Stephen Corey Bryant respectfully moves, pursuant to Supreme Court Rule 39, for leave to file the attached petition for a writ of certiorari without prepayments of costs and to proceed *in forma pauperis*. Petitioner has previously been granted leave to proceed *in forma pauperis* and was appointed counsel in the Court of Appeals for the Fourth Circuit and the District of South Carolina pursuant to 18 U.S.C. § 3599(a)(2). Those indigency determinations and appointment orders are attached. Bryant remains an indigent prisoner.

Respectfully submitted,

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APPENDIX

TABLE OF APPENDICES

Page

ORDER OF THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT, FILED JUNE 12, 2023.....1a

ORDER OF THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA, FILED
JUNE 24, 20154a

FILED: 06/12/23

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 23-4
(9:16-cv-01423-DCN)

STEPHEN COREY BRYANT

Petitioner - Appellant

v.

BRYAN P. STIRLING, Commissioner, South Carolina Department of
Corrections; LYDELL CHESTNUT, Deputy Warden, Broad River Road
Correctional Institution Secure Facility

Respondents - Appellees

O R D E R

The court appoints Gerald Wesley King, Jr. of the Federal Defenders of
Western North Carolina, Inc. as lead counsel and Ernest Charles Grose, Jr. and
Jonathan P. Sheldon as co-counsel for the appellant pursuant to the provisions of
18 U.S.C. § 3599(c) and the Criminal Justice Act effective June 7, 2023.

In light of this appointment, appellate counsel is granted access to sealed
district court material, with the exception of ex parte or in camera material to
which defense counsel did not have access in the district court.

Counsel is referred to the [Capital Budgeting and Payment Memorandum](#) for information on budgeting requirements, appointment terms, obtaining a fee exempt PACER account for electronic access to documents in CJA cases, redacting private and sensitive data from transcripts and other documents, and maintaining time and expense records.

If counsel anticipates at any time during representation that the required time will exceed 300 hours for the appeal or 100 additional hours for the petition for certiorari, counsel must submit a budget authorization request (BUDGETAUTH) through CJA eVoucher.

If preparation of transcript is necessary, CJA authorization for preparation of transcript is obtained by submitting an AUTH-24 request in the district eVoucher system. New appellate counsel must contact district eVoucher staff for appointment to the underlying district court case in order to submit the AUTH-24 request for district judge approval and the CJA 24 voucher for transcript payment. Counsel must also submit a Transcript Order Form to the court reporter and district court and file the same in the court of appeals with the docketing statement. Upon filing of the Transcript Order Form, the Fourth Circuit will set deadlines for completion of the transcript.

CJA 30 and 31 vouchers are submitted for payment through the Fourth Circuit's CJA eVoucher system. Upon receiving email notification of this appointment from eVoucher, counsel may create CJA 30 and 31 vouchers for use

in maintaining time and expense records and paying for expert services. See [CJA eVoucher](#).

All case filings must be made using the court's Electronic Case Filing system (CM/ECF). Counsel not yet registered for electronic filing should proceed to the court's web site to register as an ECF filer. See [Required Steps for Registration as an ECF Filer](#).

For the Court--By Direction

/s/ Patricia S. Connor, Clerk

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA

Stephen Corey Bryant,	)	Civil Action No. 9:15-mc-0217-DCN-BM
	)	
Plaintiff,	)	
	)	
v.	)	ORDER
	)	
Bryan P. Stirling, Commissioner,	)	
South Carolina Department of Corrections;	)	
Joseph McFadden, Warden, Lieber	)	
Correctional Institution,	)	
	)	
Defendant.	)	
_____	)	

The Petitioner in this capital habeas corpus matter, Stephen Corey Bryant (“Petitioner”), is a state prisoner convicted of three counts of murder, armed robbery, two counts of first-degree burglary, second-degree burglary, second-degree arson, assault and battery with intent to kill, possession of a stolen handgun, and threatening the life of a public official and sentenced to death. This matter is before the court on Petitioner’s Motion for Appointment of Counsel (ECF No. 1) and Motion for Leave to Proceed *In Forma Pauperis* (ECF No. 3).¹ Respondents filed a response on June 22, 2015 (ECF No. 6) and Petitioner replied on June 23, 2015 (ECF No. 8). Accordingly, these motions are ripe for review.

Motion for Leave to Proceed *In Forma Pauperis*

Petitioner has filed a motion for leave to proceed *in forma pauperis*. The court has reviewed

¹Petitioner has also filed a motion to stay his execution (ECF No. 1). That motion was addressed by the Honorable David C. Norton, United States District Judge, in a separate order filed this date.



this submission and finds that Petitioner has shown that he is indigent and qualifies to proceed *in forma pauperis* in this case. Accordingly, the court **GRANTS** Petitioner's Motion to Proceed *In Forma Pauperis* (ECF No. 3).

Motion for Appointment of Counsel

Pursuant to 18 U.S.C. § 3599(a)(2), indigent death-sentenced prisoners are "entitled to the appointment of one or more attorneys" to pursue federal habeas corpus remedies. Further, "the right to counsel necessarily includes a right for that counsel meaningfully to research and present a defendant's habeas claims." *McFarland v. Scott*, 512 U.S. 849, 858 (1994). Thus, § 3599 contemplates the appointment of qualified counsel prior to the filing of a petition for writ of habeas corpus.

In addition, § 3599 sets forth the required qualifications for appointed counsel in capital cases:

(c) If the appointment is made after judgment, at least one attorney so appointed must have been admitted to practice in the court of appeals for not less than five years, and must have had not less than three years experience in the handling of appeals in that court in felony cases.

(d) With respect to subsection[] . . . (c), the court, for good cause, may appoint another attorney whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration to the seriousness of the possible penalty and to the unique and complex nature of the litigation.

In his motion, Petitioner requests that this court appoint Charles Grose and Jon Sheldon to represent him in this action. Charles Grose was admitted to practice in this court on February 23, 1994. He has served as an Assistant Public Defender, Deputy Public Defender, and Chief Public Defender throughout South Carolina and is currently a sole practitioner in Greenwood, South Carolina. Mr. Grose has fairly extensive capital post-conviction relief experience on the state level and is the current Chair of the Board of Directors of the Death Penalty Resource & Defense Center,



a designated Community Defender Organization in Columbia, South Carolina. In addition, Mr. Grose has received significant death penalty training and has applied to serve on this court's CJA Death Penalty Attorney Panel. Accordingly, the court finds that Mr. Grose meets the requirements of § 3599(c).

Jon Sheldon worked on federal capital habeas cases as a private practitioner for ten years. In addition, he has served as an attorney-advisor for the Federal Courts, focusing on training attorneys in federal capital habeas practice. Mr. Sheldon has received extensive training in federal capital habeas cases and currently serves as the Chair of the Virginia State Bar's annual conference on how to defend a capital murder case. Based on Mr. Sheldon's background, knowledge, and experience, the court finds good cause under § 3599(d) to appoint him to represent Petitioner.

Respondents have not objected to the appointment of either of these attorneys and the court finds that they are qualified to represent Petitioner in this matter. Accordingly, the court **GRANTS** Petitioner's Motion for Appointment of Counsel (ECF No. 1) and appoints Charles Grose and Jon Sheldon as counsel for Petitioner.

Cost Containment and Budgeting

The court cautions counsel that duplication of efforts and unnecessary attorney time are to be avoided. The Judicial Council of the United States Court of Appeals for the Fourth Circuit has considered adoption of a resolution governing review of attorney compensation requests in death penalty habeas corpus cases.² Under this resolution, any request for compensation in excess of certain amounts (\$50,000) per attorney at the district court level is deemed presumptively excessive. While

²See *Special Procedures for Reviewing Attorney Compensation Requests in Death Penalty Cases*, <http://www.ca4.uscourts.gov/pdf/noticeofresolutionattorneycompensationcapitalcases.pdf>

the effective date of this resolution has been stayed pending public comment,³ the court encourages appointed counsel to make efforts to contain expenses and fees in this matter in light of the stated figure to the extent they can do so without detracting from their representation of Petitioner's positions in this case.

Toward that end, counsel shall submit a confidential proposed litigation budget within 30 days of the date of this order to Claire Woodward O'Donnell, Panel Administrator, Federal Public Defender's Office. The proposed budget shall estimate the number of hours counsel anticipates expending for the following stages of the litigation: (1) preparation and filing of the petition for habeas corpus; (2) preparation of legal memoranda in opposition to the respondent's return; and (3) evidentiary hearing, if one is sought. The proposed budget shall also contain cost estimates for investigative, expert, or other services, including law clerks and paralegals, if any.⁴ A copy of the proposed budget shall be submitted to this court. Additionally, counsel shall submit interim payment vouchers every 60 days to Ms. O'Donnell for payment consideration and so that costs and fees may be monitored.

State Court Record

For the court's reference and for case management purposes, counsel for Respondents are directed to file a complete record of all state court proceedings to date in connection with this matter within 30 days of the date of this order. Additionally, counsel shall provide one courtesy copy each

³ See *Suspension of Effective Date of Special Procedures for Reviewing Attorney Compensation requests in Death Penalty Cases*, <http://www.ca4.uscourts.gov/pdf/noticEOFsuspensionresolutionattorneycompensationcapitalcases.pdf>.

⁴ As Mr. Sheldon is from Virginia, the Court had an initial concern relating to potential travel costs which might be incurred or requested. However, Mr. Sheldon has advised the Court that he does not intend to charge for any travel time from Virginia to South Carolina that may be required, exclusive of reasonable expenses incurred.

to the assigned District Judge and Magistrate Judge.

In sum, the court orders the following:

1. Petitioner's Motion to Proceed *In Forma Pauperis* (ECF No. 3) is **GRANTED**;
2. Petitioner's Motion for Appointment of Counsel (ECF No. 1) is **GRANTED**;
3. Petitioner's counsel shall submit a confidential proposed litigation budget within 30 days of this order; and
4. Respondents' counsel shall file a complete record of state court proceedings related to this matter within 30 days of this order.

IT IS SO ORDERED.



Bristow Marchant
United States Magistrate Judge

June 24, 2015
Charleston, South Carolina

