No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

BRIAN EDWARD DAVIS,
Petitioner

v.

ERIC GUERRERO, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,
Respondent

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

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

Pursuant to Rule 39, Petitioner Brian Edward Davis asks leave to file the accompanying Petition for Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit without prepayment of costs and to proceed *in forma pauperis*. Petitioner was represented by counsel appointed under the Criminal Justice Act in the United States District Court and on appeal to the United States Court of Appeals for the Fifth Circuit. A copy of the order of appointment is appended to this motion.

Respectfully submitted,

/s/ Ken McGuire
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United States District Court
Southern District of Texas
ENTERED
June 29, 2016
David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

BRIAN EDWARD DAVIS, Petitioner, v. LORIE DAVIS, Director, Texas Department of Criminal Justice, Correctional Institutions Division, Respondent.	§ § § § § § § § § § §	CIVIL ACTION NO. H-16-1867

ORDER

Petitioner Brian Edward Davis is a death row inmate, currently in the custody of the Texas Department of Criminal Justice. He has filed a motion for the appointment of counsel to assist him in this habeas corpus proceeding.

Title 18 U.S.C. § 3599(a)(2) provides for appointment of one or more attorneys in a habeas corpus proceeding when the petitioner is financially unable to obtain adequate representation on his own. Davis has not submitted proof that he is unable to afford counsel. Rather than further delay this time-sensitive proceeding, however, the court will appoint counsel conditioned on Davis filing the necessary proof of indigency within 30 days.

Accordingly,

IT IS **ORDERED** THAT Davis's Motion For Appointment of Counsel (Docket Entry No. 1) is **GRANTED;**

IT IS FURTHER **ORDERED** THAT Kenneth W. McGuire, Esq., Post Office Box 79535, Houston, TX 77279, (713) 223-1558, is conditionally appointed to represent Davis in this habeas corpus proceeding;

IT IS FURTHER **ORDERED** THAT Ali Fazel, Esq., 4801 Woodway Drive, Suite 165 E, Houston, TX 77056, (713) 229-9292, is conditionally appointed as co-counsel to represent Davis in this habeas corpus proceeding; and

IT IS FURTHER **ORDERED** THAT this appointment will be withdrawn unless Davis submits proof of indigency within 30 days of the date of this Order.

Appointed counsel for Davis will confer with the Attorney General of Texas and submit a proposed scheduling order by July 28, 2016.

If counsel has reason to believe that the cost of this case will exceed the presumptive maximum, it is recommended that counsel submit a case budget for prior approval by the Fifth Circuit. A pre-approved budget will expedite payment of any interim vouchers

in excess of the presumptive case limit.

SO ORDERED.

SIGNED at Houston, Texas, on this 29th day of June, 2016.

SIM LAKE
UNITED STATES DISTRICT JUDGE