

No. _____

(CAPITAL CASE)

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

RODERICK NAPOLEON HARRIS,

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

ADAM H. CHARNES
KILPATRICK TOWNSEND &
STOCKTON LLP
2001 Ross Avenue
Suite 4400
Dallas, TX 75201

GWENDOLYN C. PAYTON
Counsel of Record
JOHN R. NEELEMAN
KILPATRICK TOWNSEND &
STOCKTON LLP
1420 Fifth Avenue
Suite 3700
Seattle, WA 98101
(206) 626-7714
gpayton@ktslaw.com

Counsel for Petitioner

Petitioner Roderick Napoleon Harris seeks leave to file the petition for a writ of certiorari submitted herewith without prepayment of costs and to proceed in forma pauperis. Mr. Harris, currently incarcerated on Texas's death row, is represented by the undersigned, on a purely pro bono basis.

In 2009, the Criminal District Court No. 7, Dallas County, Texas, found that Mr. Harris was indigent, and provided him court-appointed counsel at trial because he is indigent. Following his conviction and death sentence, Mr. Harris continued to be represented by court-appointed counsel because he is indigent. Pursuant to the attached Order, on May 22, 2012, the Criminal District Court No. 7, Dallas County, Texas, found that Mr. Harris was indigent and therefore appointed the Office of Capital Forensic Writs as his post-conviction counsel. The Texas courts later granted the undersigned leave to appear as pro bono counsel to represent Mr. Harris, together with the Office of Capital Forensic Writs. Mr. Harris was granted leave to proceed in forma pauperis throughout the entire history of the state post-conviction matter.

When Mr. Harris filed his federal habeas petition, the district court for the Northern District of Texas found that Mr. Harris was indigent and appointed counsel for him on January 25, 2021. Later, the undersigned represented Mr. Harris pro bono in his appeal to the Fifth Circuit.

Wherefore, Mr. Harris moves this Court for leave to file the petition for writ of certiorari submitted herewith in forma pauperis.

ADAM H. CHARNES
KILPATRICK TOWNSEND &
STOCKTON LLP
2001 Ross Avenue
Suite 4400
Dallas, TX 75201

Respectfully submitted,

/s/ Gwendolyn C. Payton
GWENDOLYN C. PAYTON
Counsel of Record
JOHN R. NEELEMAN
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Dated: August 28, 2026

APPENDIX

TABLE OF APPENDICES

AFFIDAVIT ACCOMPANYING MOTION FOR PERMISSION TO
APPEAL IN FORMA PAUPERIS

ORDER APPOINTING COUNSEL IN THE UNITED STATES
DISTRICT COURT FOR THE NORTHERN DISTRICT OF
TEXAS, DALLAS DIVISION, FILED JANUARY 25, 2021

ORDER AND NOTICE IN THE CRIMINAL DISTRICT COURT
NO. 7, DALLAS COUNTY, TEXAS, FILED MAY 22, 2012

Supreme Court of the United States

RODERICK NAPOLEON HARRIS,

Plaintiff,

v.

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

Defendant.

Case No. 25A1359

AFFIDAVIT ACCOMPANYING MOTION FOR PERMISSION TO APPEAL IN FORMA PAUPERIS

Affidavit in Support of Motion

I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury under United States laws that my answers on this form are true and correct. (28 U.S.C. § 1746; 18 U.S.C. § 1621.)

Signed: /s/ Roderick Harris

Instructions

Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write in that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.

Date: Aug. 20, 2026

My issues on appeal are:

Issues on appeal are ineffective assistance of counsel.

1. *For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received*

weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$0.00	\$N/A	\$0.00	\$N/A
Self-employment	\$0.00	\$N/A	\$0.00	\$N/A
Income from real property (such as rental income)	\$0.00	\$N/A	\$0.00	\$N/A
Interest and dividends	\$0.00	\$N/A	\$0.00	\$N/A
Gifts	\$0.00	\$N/A	\$0.00	\$N/A
Alimony	\$0.00	\$N/A	\$0.00	\$N/A
Child support	\$0.00	\$N/A	\$0.00	\$N/A
Retirement (such as social security, pensions, annuities, insurance)	\$0.00	\$N/A	\$0.00	\$N/A
Disability (such as social security, insurance payments)	\$0.00	\$N/A	\$0.00	\$N/A
Unemployment payments	\$0.00	\$N/A	\$0.00	\$N/A
Public-assistance (such as welfare)	\$0.00	\$N/A	\$0.00	\$N/A
Other (specify):	\$0.00	\$N/A	\$0.00	\$N/A
Total monthly income:	\$0.00	\$N/A	\$0.00	\$N/A

2. *List your employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)*

Employer	Address	Dates of employment	Gross monthly pay
N/A	N/A	N/A	\$N/A
			\$

			\$
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3. *List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)*

Employer	Address	Dates of employment	Gross monthly pay
N/A	N/A	N/A	\$N/A
			\$
			\$

4. *How much cash do you and your spouse have? \$ 0*

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial Institution	Type of Account	Amount you have	Amount your spouse has
N/A	N/A	\$N/A	\$N/A
		\$	\$
		\$	\$

If you are a prisoner seeking to appeal a judgment in a civil action or proceeding, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

5. *List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.*

Home	Other real estate	Motor vehicle #1
(Value) \$N/A	(Value) \$N/A	(Value) \$N/A
		Make and year:
		Model:

		Registration #:
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Motor vehicle #2	Other assets	Other assets
(Value) \$	(Value) \$	(Value) \$
Make and year:		
Model:		
Registration #:		

6. *State every person, business, or organization owing you or your spouse money, and the amount owed.*

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
N/A	\$N/A	\$N/A
	\$	\$
	\$	\$
	\$	\$

7. *State the persons who rely on you or your spouse for support.*

Name [or, if under 18, initials only]	Relationship	Age
N/A	N/A	N/A

8. *Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.*

	You	Your Spouse
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Rent or home-mortgage payment (include lot rented for mobile home) Are real estate taxes included? ☐ Yes ☐ No Is property insurance included? ☐ Yes ☐ No	\$0.00	\$N/A
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$0.00	\$N/A
Home maintenance (repairs and upkeep)	\$0.00	\$N/A
Food	\$0.00	\$N/A
Clothing	\$0.00	\$N/A
Laundry and dry-cleaning	\$0.00	\$N/A
Medical and dental expenses	\$0.00	\$N/A
Transportation (not including motor vehicle payments)	\$0.00	\$N/A
Recreation, entertainment, newspapers, magazines, etc.	\$0.00	\$N/A
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's:	\$0.00	\$N/A
Life:	\$0.00	\$N/A
Health:	\$0.00	\$N/A
Motor vehicle:	\$0.00	\$N/A
Other:	\$0.00	\$N/A
Taxes (not deducted from wages or included in mortgage payments) (specify):	\$0.00	\$N/A
Installment payments		
Motor Vehicle:	\$0.00	\$N/A
Credit card (name):	\$0.00	\$N/A
Department store (name):	\$0.00	\$N/A
Other:	\$0.00	\$N/A
Alimony, maintenance, and support paid to others	\$0.00	\$N/A
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$0.00	\$N/A
Other (specify):	\$0.00	\$N/A

Total monthly expenses:	\$0	\$N/A
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9. *Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?*

☐ Yes ☒ No

If yes, describe on an attached sheet.

10. *Have you spent — or will you be spending — any money for expenses or attorney fees in connection with this lawsuit?* ☐ Yes ☒ No

If yes, how much? \$ _____

11. *Provide any other information that will help explain why you cannot pay the docket fees for your appeal.*

I am currently incarcerated at the Allan B. Polunsky Unit in Livingston, Texas. I have no employment or source of income and receive no financial assistance from any other person. I am therefore unable to pay the required docket fees or otherwise afford the costs associated with this proceeding. I am being represented pro bono and have no financial resources available to pay the applicable fees.

12. *State the city and state of your legal residence.*

TDCJ Polunsky Unit
3872 FM 350
Livingston, TX 77351

Your daytime phone number: N/A

Your age: 42 *Your years of schooling:* 11th grade of high school

Last four digits of your social-security number: 2193

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

RODERICK NAPOLEON HARRIS,	§	
Petitioner,	§	
	§	
V.	§	No. 3:20-cv-3702-C
	§	
BOBBY LUMPKIN, Director,	§	
Texas Department of Criminal Justice,	§	
Correctional Institutions Division	§	

ORDER APPOINTING COUNSEL

Before the Court is Petitioner Roderick Napoleon Harris's Motion for Appointment of Counsel ("motion," ECF No. 1). Having reviewed the motion and a written advisory from the Federal Public Defender, the Court finds that Harris is entitled to the appointment of counsel by the provisions of 18 U.S.C. § 3599(a)(2) but finds that Gwendolyn C. Payton has a potential conflict of interest for having represented the Petitioner in state court and that Adam H. Charnes is not qualified to act as lead counsel.

The Court finds that attorney Michael Mowla possesses the background, knowledge, and experience to enable him to represent Petitioner with due consideration to the seriousness of the possible penalty and the unique and complex nature of the litigation, and is qualified and willing to accept this appointment as lead counsel. Mr. Mowla is a member in good standing on the bar of this Court.

Accordingly, the Court **grants** the motion to appoint counsel and appoints **Michael Mowla** as lead counsel to represent the Petitioner in this case.

Instructions to Counsel

Compensation: Appointed counsel is entitled to compensation (currently at the hourly rate of \$197) and other reasonably necessary services in accordance with the [Guide to Judiciary Policy, Vol. 7, Pt. A, chapter 6](#). Counsel is directed to read the *Guide* along with the instructions for form CJA 30 and the Fifth Circuit Judicial Council's *Special Procedures for Reviewing Attorney Compensation Requests in Death Penalty Cases* (amended Feb. 1, 2005) in order to ensure proper compensation for time and expenses incurred herein.

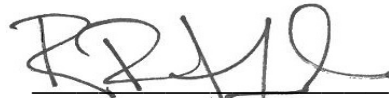
Case Budgeting: Counsel is directed to consult with the Fifth Circuit Case Budgeting Attorney, Meg Alverson (504-310-7799), regarding the need for a case budget addressing attorney fees and any services other than counsel.

A copy of this order along with a CJA 30 form shall be provided to appointed counsel at the following address:

Michael Mowla, PLLC
P.O. Box 868
Cedar Hill, TX 75106

SO ORDERED.

January 25, 2021.



REBECCA RUTHERFORD
UNITED STATES MAGISTRATE JUDGE

CAUSE NO. F09-00409

THE STATE OF TEXAS	§	CRIMINAL DISTRICT COURT NO. 7
VS.	§	
RODERICK N. HARRIS	§	DALLAS COUNTY, TEXAS

ORDER AND NOTICE

The above named defendant was convicted of capital murder and sentenced to death on May 21, 2012. The Court finds that the defendant is indigent and desires to have counsel appointed for the purpose of a writ of habeas corpus under Art. 11.071, Texas Code of Criminal Procedure.

Therefore, the Court hereby appoints the Office of Capital Writs and Director Brad D. Levenson as counsel for defendant to investigate the case, file the appropriate writ, and represent the defendant fully. Following the Motion for New Trial, trial defense counsel are relieved of their representation of Mr. Harris.

The District Clerk is hereby ordered to forward a copy of this Order and Notice to the Office of Capital Writs and to the Court of Criminal Appeals. Appointed counsel's address is as follows:

Brad D. Levenson
Office of Capital Writs
Stephen F. Austin Building
1700 N. Congress Avenue, Suite 460
Austin, Texas 78711
512-463-8502 – Direct
512-463-8590 – Fax
Brad.Levenson@ocw.texas.gov

So ordered this 22 day of May 2012.


Michael Snipes
Presiding Judge
Criminal District Court No. 7