No. 26-_____
(CAPITAL CASE)

IN THE
Supreme Court of the United States

JAMES DWIGHT PAVATT, PETITIONER,

V.

STATE OF OKLAHOMA, RESPONDENT.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE OKLAHOMA COURT OF CRIMINAL APPEALS

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

Petitioner James Dwight Pavatt by and through undersigned counsel, respectfully moves this Court for leave to file the attached Petition for a Writ of Certiorari without prepayment of costs and to proceed *in forma pauperis* pursuant to Supreme Court Rule 39.

Petitioner's affidavit or declaration is **not** attached because counsel of record has been appointed pursuant to 18 U.S.C. § 3599. *See* ECF 22, *Pavatt v. Sirmons*, No. CIV-08-470-W (W.D. Okla. Sept. 08, 2008). That appointment includes pursuing this litigation. *See Harbison v. Bell*, 556 U.S.180 (2009). Mr. Pavatt was determined to be indigent and appointed counsel on that basis in the underlying conviction as well as the related appeal, and post-conviction proceedings pursuant to state law. *See* 22 Okla. Stat. § 1355, *et seq*.

Respectfully submitted,

/s/*Hunter S. Labovitz*

*HUNTER S. LABOVITZ
Assistant Federal Public Defender
**Counsel of Record*
OFFICE OF THE FEDERAL PUBLIC DEFENDER
Western District of Oklahoma, Capital Habeas Unit
215 Dean A. McGee Ave., Suite 707
Oklahoma City, Oklahoma 73102
(405) 609-5975
Hunter_Labovitz@fd.org

COUNSEL FOR JAMES DWIGHT PAVATT