OCTOBER TERM, 2026

CASE NO. _____

IN THE SUPREME COURT OF THE UNITED STATES

Briley Piper,
Petitioner,

v.

Attorney General for the State of South Dakota;
Tabatha Benting, Warden, South Dakota State Penitentiary,
Respondents;
United States of America,
Intervenor.

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

MOTION TO PROCEED IN FORMA PAUPERIS

— CAPITAL CASE —

Petitioner, Briley Piper, through undersigned counsel, moves under Rule 39.1 for leave to proceed in forma pauperis on his concurrently filed Petition for Writ of Certiorari. Petitioner is incarcerated and indigent; he has sought and been appointed counsel throughout the proceedings below. The United States District Court for the District of South Dakota appointed undersigned counsel to represent Petitioner in his proceedings under 28 U.S.C. § 2254 in Case Nos. 5:19-mc-43 and 5:20-cv-05074, and the United States Court of Appeals for the Eighth Circuit did the same in Case No.

25-2617; those orders are attached. Undersigned counsel represent Petitioner without charge. Petitioner respectfully requests that the Court allow him to proceed in forma pauperis.

Respectfully submitted,

/s/ Loren D. Stewart

Jason J. Tupman
Federal Public Defender
Office of the Federal Public Defender
Districts of South Dakota and North Dakota
101 South Main Street, Suite 400
Sioux Falls, SD 57104
(605) 330-4489

Counsel for Petitioner, Briley Piper

Loren Stewart*
Assistant Federal Defender
Federal Community Defender Office
for the Eastern District of Pennsylvania
Suite 545 West, The Curtis
Philadelphia, PA 19106
(215) 928-0520

**Counsel of Record*
Member of the Bar of the Supreme Court

Dated: November 13, 2026

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No: 25-2617

Briley Piper

Appellant

v.

Attorney General for the State of South Dakota and Joseph Roemmich, Warden, South Dakota State Penitentiary

Appellees

Appeal from U.S. District Court for the District of South Dakota - Western
(5:20-cv-05074-RAL)

ORDER

IT IS ORDERED that the Capital Habeas Unit of the Federal Public Defender for the District of Pennsylvania is hereby appointed to represent (or to continue to represent) the above-named appellant in all matters pertaining to this action before this Court.

August 18, 2025

Order Entered under Rule 27A(a):
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Susan E. Bindler

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No: 25-2617

Briley Piper

Appellant

v.

Attorney General for the State of South Dakota and Joseph Roemmich, Warden, South Dakota State Penitentiary

Appellees

Appeal from U.S. District Court for the District of South Dakota - Western
(5:20-cv-05074-RAL)

ORDER

IT IS ORDERED that the Federal Public Defender for the District of South Dakota is hereby appointed to represent (or to continue to represent) the above-named appellant in all matters pertaining to this action before this Court.

August 18, 2025

Order Entered under Rule 27A(a):
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Susan E. Bindler

UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

WESTERN DIVISION

BRILEY PIPER, Petitioner, vs. DARIN YOUNG, Warden, South Dakota State Penitentiary, Respondent.	CIV. 19-mc-0043 ORDER

Petitioner Briley Piper, a prisoner at the South Dakota State Penitentiary, filed a motion for appointment of counsel to permit him to file a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, together with an application to proceed without prepayments of fees and a prisoner trust account. (Dockets 1, 1-1 and 2). The court reviewed the documents and good cause appearing, it is

ORDERED that petitioner's motion to proceed *in forma pauperis* (Docket 1-1) is granted.

IT IS FURTHER ORDERED that petitioner's motion for appointment of counsel (Docket 1) is granted.

IT IS FURTHER ORDERED that the Federal Public Defender for the Districts of South Dakota and North Dakota and the Federal Community Defender Office for the Eastern District of Pennsylvania are appointed as co-counsel to represent petitioner, subject to approval by the Defender Services Office of the Administrative Office of the United States Courts to allow the

Federal Community Defender Office for the Eastern District of Pennsylvania to appear out-of-district.

Dated December 27, 2019.

BY THE COURT:

/s/ *Jeffrey L. Viken*
JEFFREY L. VIKEN
CHIEF JUDGE

HABEAS,CLOSED

U.S. District Court
District of South Dakota (Western Division)
CIVIL DOCKET FOR CASE #: 5:20-cv-05074-RAL

Piper v. Sullivan et al
Assigned to: Chief Judge Roberto A. Lange
Case in other court: 8th Circuit, 25-02617
Cause: 28:2254 Petition for Writ of Habeas Corpus (State)

Date Filed: 12/08/2020
Date Terminated: 07/16/2025
Jury Demand: None
Nature of Suit: 535 Prisoner Petitions: Habeas Corpus - Death Penalty
Jurisdiction: Federal Question

Petitioner

Briley Piper

represented by **Jason J. Tupman**
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ATTORNEY TO BE NOTICED

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TERMINATED: 07/01/2022

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ATTORNEY TO BE NOTICED

V.

Respondent

Darin Young
Warden
TERMINATED: 03/02/2022

represented by **Paul S. Swedlund**
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1302 E. Highway 14
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Respondent

The Attorney General of the State of South Dakota

represented by **Matthew W. Templar**
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LEAD ATTORNEY
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Paul S. Swedlund
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Respondent

Dan Sullivan
Warden, South Dakota State Penitentiary

represented by **Matthew W. Templar**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Paul S. Swedlund
(See above for address)

LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
12/08/2020	1	**PETITION for Writ of Habeas Corpus pursuant to 28:2254 filed by Briley Piper (short form). (Attachments: # 1 Petition for Writ of Habeas Corpus Pursuant to 28:2254 (long form) (DJP) (Entered: 12/09/2020)**
12/08/2020	2	APPENDIX (Volumes I (pp. A0001 to A0438), II (pp. A0439-A0873), III (pp. A0874-A1046) by Petitioner Briley Piper re 1 Petition for Writ of Habeas Corpus (28:2254) (Attachments: # 1 Appendix Volume II, # 2 Appendix Volume III) (DJP) (Attachment 2 (Volume III) replaced on 12/9/2020 to correct page rotations (DJP). (Entered: 12/09/2020)
12/08/2020	3	MOTION for Leave to Proceed in forma pauperis by Briley Piper. (DJP) (Entered: 12/09/2020)
12/08/2020	4	PRISONER Trust Account Report. (DJP) (Entered: 12/09/2020)
12/08/2020	5	MOTION for Equitable Tolling, MOTION For Leave to Supplement and/or Amend in Six Months' Time, and MOTION for Leave to File a Memorandum of Law by Briley Piper. (Attachments: # 1 Proposed Order) (DJP) (Entered: 12/09/2020)
12/08/2020		Attorneys Claudia Van Wyk and James Moreno previously granted permission to appear as co-counsel for Petitioner pursuant to Order in 5:19-mc-43, DE 3. (DJP) (Entered: 12/09/2020)
12/10/2020	6	ORDER granting 3 Motion for Leave to Proceed in forma pauperis. Signed by U.S. District Judge Jeffrey L. Viken on 12/10/2020. (KLE) (Entered: 12/10/2020)
12/10/2020	7	ORDER granting 5 Petitioner's motion for equitable tolling. ORDERED that the statute of limitations, 28 U.S.C.§ 2244(d)(1), governing the filing of a § 2254 petition is tolled for a period of six months until June 11, 2021. The petitioner shall have until June 11, 2021 to file a supplemental or amendment, or both, to the 2254 petition and the petitioner shall file a legal memorandum in support of his § 2254 petition on or before August 10, 2021 Signed by U.S. District Judge Jeffrey L. Viken on 12/10/2020. (KLE) (Entered: 12/10/2020)
12/10/2020	8	ORDER that petitioner's warrant of execution is stayed pending further order of the court. Signed by U.S. District Judge Jeffrey L. Viken on 12/10/2020. (KLE) Modified on 12/10/2020 sent to Darin Young, Jason Ravnsborg and Shirley A. Jameson-Fergel via certified mail (KLE). (Entered: 12/10/2020)
12/15/2020	9	RETURN OF CERTIFIED MAIL RECEIPT as to Darin Young served on 12/12/2020. (KLE) (Entered: 12/15/2020)
12/16/2020	10	RETURN OF CERTIFIED MAIL RECEIPT as to Jason Ravonsborg, Attorney General, served on 12/14/2020. (KLE) (Entered: 12/16/2020)
12/16/2020	11	RETURN OF CERTIFIED MAIL RECEIPT as to South Dakota Supreme Court served on 12/14/2020. (KLE) (Entered: 12/16/2020)
12/18/2020	12	ORDER. Signed by U.S. District Judge Jeffrey L. Viken on 12/18/20. (SB) (Entered: 12/18/2020)
12/21/2020	13	NOTICE of Appearance by Paul S. Swedlund on behalf of The Attorney General of the State of South Dakota, Darin Young. (Swedlund, Paul) (Entered: 12/21/2020)