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S.C. SUPREME COURT

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

Marion Alexander Lindsey,
Petitioner,
v.
Joel Anderson and Stephan Duncan,
Respondents.

Case No. 2:25-mc-00903-DCN-MGB

ORDER

Marion Alexander Lindsey ("Petitioner") is a state prisoner sentenced to death. This matter is before the Court on Petitioner's Motion to Proceed In Forma Pauperis (Dkt. No. 2) and Motion to Appoint Counsel (Dkt. No. 3). Respondents have filed a response (Dkt. No. 8), to which Petitioner has replied (Dkt. No. 10).

I. Motion for Leave to Proceed In Forma Pauperis

After careful review of Petitioner's Motion for Leave to Proceed In Forma Pauperis (Dkt. No. 2) and supporting affidavit (Dkt. No. 7), the Court finds that Petitioner should be relieved of the obligation to prepay the full filing fee. Petitioner's Motion (Dkt. No. 2) is therefore GRANTED.

II. 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

1 Lydell Chestnut is substituted for Stephan Duncan as the proper respondent in this matter.

2 Petitioner has also moved for a Stay of Execution. (Dkt. No. 1.) The District Judge will rule on that motion (Dkt. No. 1) by separate order once an execution date has been set.

contemplates the appointment of qualified counsel prior to the filing of a petition for writ of habeas corpus and sets forth the required qualifications:

(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.

18 U.S.C. § 3599(c)–(d).

In addition, pursuant to the District of South Carolina’s plan for implementing the Criminal Justice Act (“CJA”), this court maintains a panel of qualified attorneys available to represent indigent defendants. *See Standing Orders – Amended CJA Plan for the District of South Carolina*, Case No. 3:25-mc-00722 (D.S.C. Sept. 22, 2025) (“CJA Plan”). Recognizing the particular complexity of capital cases, the CJA Plan instructs the court to utilize the expert services available through the Administrative Office of the United States Courts, which include capital habeas units and federal community defender offices, where appropriate. CJA Plan § XIII(B)(4). Further, “[a]ll attorneys appointed in federal capital cases must be well qualified, by virtue of their training, commitment, and distinguished prior capital defense experience at the relevant stage of the proceeding, to serve as counsel in this highly specialized and demanding litigation” and “must have sufficient time and resources to devote to the representation, taking into account their current caseloads and the extraordinary demands of federal capital cases.” *Id.* § XIII(B)(8), (9).

Specifically, regarding appointment of counsel in capital habeas matters, the CJA Plan provides the following guidance:

6. Out-of-district counsel, including federal defender organization staff, who possess the requisite expertise may be considered for appointment as co-counsel in capital § 2254 cases to achieve cost and other efficiencies together with high quality representation.

....

9. Counsel in capital § 2254 cases should have distinguished prior experience in the area of federal post-conviction proceedings and in capital postconviction proceedings.

10. When possible, capital § 2254 counsel should have distinguished prior experience in capital § 2254 representations.

11. In evaluating the qualifications of proposed capital § 2254 counsel, consideration should be given to the qualifications standards endorsed by bar associations and other legal organizations regarding the quality of legal representation in capital cases.

12. In evaluating the qualifications of proposed capital § 2254 counsel, consideration should be given to his or her commitment to the defense of capital cases, his or her current caseload including other capital cases, and his or her willingness to represent effectively the interests of the client.

CJA Plan § XIII(F).

Petitioner requests that the court appoint the Capital Habeas Unit of the Fourth Circuit (“CHU”), a division of the Federal Public Defender for the Western District of North Carolina (“FPD-WDNC”), along with Rosalind S.D. Major, to represent him. (Dkt. No. 3 at 1.) The Court of Appeals for the Fourth Circuit established the CHU to provide qualified representation to indigent, death-sentenced prisoners. The CHU’s attorneys have specialized expertise in capital litigation and are each qualified under § 3599’s standards.

Mr. King is the Chief of the CHU. He has more than twenty-two years of experience litigating capital habeas proceedings and appeals, including as a staff attorney for the Northern District of Georgia’s CHU and the Equal Justice Initiative of Alabama. He has previously been

appointed by this Court to represent death-sentenced prisoners in the type of proceedings anticipated in this case. (*Id.* at 6).

Rosalind S.D. Major is a staff attorney at Justice 360, formerly the Death Penalty Resource Center for South Carolina. She is admitted to the state bar of South Carolina and the federal bars of this Court and the Fourth Circuit Court of Appeals. Ms. Major's practice is devoted to representing South Carolina death sentenced inmates in their state and federal post-conviction proceedings. She has been appointed to represent four death-sentenced individuals in state capital post-conviction proceedings, and one individual in capital federal habeas proceeding. She has provided *pro bono* representation in several other capital cases in state and federal court and has completed many hours of continuing legal education focused on capital post-conviction and habeas representation. (*Id.* at 7.)

Based on the foregoing, the court finds Ms. Major and the CHU qualified to represent Petitioner under § 3599 and **GRANTS** Petitioner's Motion to Appoint Counsel (Dkt. No. 3). Counsel are reminded that by accepting appointment they are indicating their willingness and availability to represent Petitioner to the full extent of their professional ability in all phases of this litigation. Counsel should advise the court immediately if their current caseload does not permit this level of representation.

### **III. Cost Containment and Budgeting**

Appointed counsel shall file an *ex parte* confidential proposed litigation budget within thirty days of this order. In preparing this budget, counsel should consult with Emily Munn, Fourth Circuit Case Budgeting Attorney. The Court cautions counsel to avoid duplication of efforts and unnecessary attorney time.

Counsel shall submit interim payment vouchers every sixty days to Claire Woodward O'Donnell, Panel Administrator, Federal Public Defender's Office, for payment consideration and so that costs and fees can be monitored. Counsel shall be compensated at the current capital rate approved by the Administrative Office of the United States Courts.

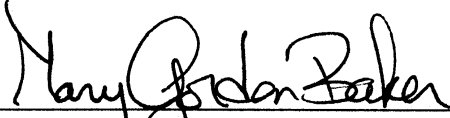
**IV. State Court Record**

Counsel for Respondents are directed to file a complete record of all state court proceedings to date in connection with this matter within thirty days of this order. Additionally, counsel shall provide one courtesy copy to the assigned District Judge and one courtesy copy to undersigned Magistrate Judge.

**V. Petition and Scheduling**

In accordance with 28 U.S.C. § 2251(a)(3), Petitioner shall file a petition for a writ of habeas corpus within ninety days of this Order appointing counsel. Petitioner shall then have until the expiration of the one-year limitation period prescribed by the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") to amend his petition. *See* 28 U.S.C. § 2244(d). The Court will enter a scheduling order regarding responsive briefing after Petitioner amends his petition or the time to do so expires.

**IT IS SO ORDERED.**

  
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MARY GORDON BAKER  
UNITED STATES MAGISTRATE JUDGE

February 9, 2026  
Charleston, South Carolina