

No. \_\_\_\_\_

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IN THE SUPREME COURT OF THE UNITED STATES  
October Term, 2020

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VIRGIL DELANO PRESNELL,  
Petitioner

-v-

BENJAMIN FORD, Warden,  
Georgia Diagnostic Prison,  
Respondent.

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

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**MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS***

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\*Monet Brewerton-Palmer  
Federal Defender Program, Inc.  
101 Marietta Street, Suite 1500  
Atlanta, Georgia 30303  
404-688-7530  
Monet\_Brewerton@fd.org  
\*Counsel of Record

Counsel for Virgil Delano Presnell

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COMES NOW Petitioner, Virgil Delano Presnell, by and through his undersigned counsel, and, pursuant to Rule 39, Rules of the Supreme Court of the United States, moves this Court for an Order granting him leave to proceed *in forma pauperis*, and without prepayment of fees. In support thereof, Petitioner shows the following:

1) Petitioner currently is confined under a sentence of death at the Georgia Diagnostic and Classification Prison in Jackson, Georgia. He was permitted to proceed as an indigent without payment of costs and fees in the United States District Court for the Northern District of Georgia and the United States Court of Appeals for the Eleventh Circuit throughout the proceedings below.

2) Petitioner remains indigent and files herewith a petition for writ of *certiorari* from this Court to the Eleventh Circuit Court of Appeals, which denied Petitioner's appeal of the district court's dismissal of his petition for writ of habeas corpus by a prisoner in state custody on September, 16, 2020, and denied his timely-filed petition for rehearing and rehearing *en banc* on December 1, 2020.

3) The order of the United States District Court finding Mr. Franks to be indigent and appointing undersigned counsel is attached as Exhibit A.

WHEREFORE, Petitioner respectfully requests that this Court grant his motion and allow Petitioner to proceed *in forma pauperis* and without prepayment of costs.

Respectfully submitted, this the 30th day of April, 2021.

Monet Brewerton Palmer  
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Counsel For Mr. Presnell

## Exhibit A

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

VIRGIL DELANO PRESNELL,	:	
	:	
Petitioner,	:	
	:	CIVIL ACTION NO.
vs.	:	
	:	1:07-CV-1267-CC
HILTON HALL, Warden, Georgia	:	
Diagnostic and Classification Prison,	:	
	:	
Respondent.	:	

**ORDER**

This is a federal petition for a writ of habeas corpus filed by a state prisoner pursuant to 28 U.S.C. § 2254. Petitioner Virgil Delano Presnell (“Petitioner”) is presently under a sentence of death. The case is before the Court on Petitioner’s Petition for Writ of Habeas Corpus by a Person in State Custody [Doc. No. 1], Petitioner’s Motion for Leave to Proceed *In Forma Pauperis* [Doc. No. 2], and Petitioner’s *Ex Parte* Motion for Appointment of Counsel Under the Criminal Justice Act and the Anti-Drug Abuse Act of 1988 [Doc. No. 3].

The Court **DIRECTS** the Clerk of Court to transmit a copy of Petitioner’s Petition for Writ of Habeas Corpus by a Person in State Custody and this Order by certified mail to Respondent and the Attorney General for the State of Georgia. The Court **ORDERS** Respondent to show cause within sixty (60) days of receipt of this Order why the writ should not be granted. In connection therewith, Respondent shall transmit to the Court such pleadings, transcripts, and decisions as are available and required to determine the issues raised in Petitioner’s Petition for a Writ of Habeas Corpus.

With respect to Petitioner’s Motion for Leave to Proceed *In Forma Pauperis*, the Court **ORDERS** that Petitioner’s Motion for Leave to Proceed *In Forma Pauperis* is **GRANTED**, and that Petitioner may proceed in this matter *in forma pauperis*.

Finally, as Petitioner has satisfied this Court that he is financially unable to employ counsel, the Court **GRANTS** Petitioner's *Ex Parte* Motion for Appointment of Counsel Under the Criminal Justice Act and the Anti-Drug Abuse Act of 1988. Accordingly, pursuant to the Criminal Justice Act, 18 U.S.C. § 3006A, and the Anti-Drug Abuse Act, 21 U.S.C. § 848, the Court hereby appoints the Federal Defender Program, Inc. to represent Petitioner in this habeas corpus proceeding.

SO ORDERED this 6th day of June, 2007.

s/ CLARENCE COOPER

CLARENCE COOPER  
UNITED STATES DISTRICT JUDGE