

No.

IN THE SUPREME COURT OF THE UNITED STATES

BRAD KEITH SIGMON,
Petitioner.

v.

THE STATE OF SOUTH CAROLINA
Respondent,

CAPITAL CASE

Execution of Appellant Sigmon scheduled for
March 7, 2025, 6:00 p.m.

MOTION TO PROCEED *IN FORMA PAUPERIS*

Petitioner Brad Keith Sigmon respectfully moves, pursuant to Supreme Court Rule 39, for leave to file the attached petition for writ of certiorari without prepayment of costs and to proceed *in forma pauperis*. Petitioner has previously been granted leave to proceed *in forma pauperis* and was appointed counsel in the Court of Appeals for the Fourth Circuit and the District of South Carolina pursuant to 18 U.S.C. §3599(a)(2) and (c). Those indigency determinations and appointment orders are attached (also see, Text Order granting Motion to Appoint Counsel at 260, *Sigmon v. Byars*, No. 18:13-cv-01399-RBH.) Mr. Sigmon remains an indigent prisoner.

Respectfully submitted,

John G. Baker
Federal Public Defender for the
Western District of North Carolina

/s/ Gerald W. King, Jr.
Gerald W. "Bo" King, Jr.
Chief, Capital Habeas Unit
for the Fourth Circuit
Counsel of Record
129 West Trade Street, Suite 300
Charlotte, NC 28202
Tel: (704) 374-0720
Direct: (704) 688-6946
E-mail: gerald_king@fd.org

Joshua Snow Kendrick
Kendrick & Leonard, P.C.
P.O. Box 6938
Greenville, SC 29606

Counsel for Brad Keith Sigmon

March 5 2025

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

Brad Keith Sigmon, # SK-6008,)	C/A No. 8:13-cv-01399-RBH-JDA
)	
Petitioner,)	
)	
vs.)	ORDER
)	
William R. Byars, Jr., <i>Commissioner, South Carolina</i>)	
<i>Department of Corrections;</i>)	
Joseph McFadden, <i>Warden of Lieber Correctional</i>)	
<i>Institution,</i>)	
)	
Respondents.)	
_____)	

This matter is before the Court on Petitioner’s motion to substitute counsel. [Doc. 172.] Pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B), and Local Civil Rule 73.02(B)(2)(c), D.S.C., this matter has been referred to the undersigned magistrate judge. Petitioner seeks to substitute counsel as follows: appoint Joshua Kendrick, Esquire, as second chair counsel and relieve Marta K. Kahn, Esquire. [Doc. 172.] Respondents did not file a response to the motion to substitute.

Qualifications of Counsel

Petitioner has outlined the qualifications of Mr. Kendrick. [Doc. 172 at 2.] As previously outlined by this Court in the Orders appointing counsel in this case [Docs. 19, 81, 132], the qualifications for appointed counsel in capital cases are governed by 18 U.S.C. § 3599 and the Plan of the United States District Court for the District of South Carolina for Implementing the Criminal Justice Act. *See In re Amendments to the Plan of the U.S. Dist. Ct. for the Dist. of S.C. for Implementing the Criminal Justice Act*, No. 3:10-mc-5005-CIV (D.S.C. May 5, 2010) (“CJA Plan”). The statutory authority for the

federal courts to appoint legal counsel for indigent, death-sentenced prisoners seeking habeas corpus relief is contained in the following relevant portions of 18 U.S.C. § 3599:

(a)(2) In any post conviction proceeding under section 2254 or 2255 of title 28, United States Code, seeking to vacate or set aside a death sentence, any defendant who is or becomes financially unable to obtain adequate representation or investigative, expert, or other reasonably necessary services shall be entitled to the appointment of one or more attorneys and the furnishing of such other services in accordance with subsections (b) through (f).

. . . .

(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.

Petitioner asserts that Mr. Kendrick has been admitted to the Bar of the United States Court of Appeals for the Fourth Circuit since 2003 and has been licensed to practice law in South Carolina since 2002. [Doc. 172 at 2.] Mr. Kendrick is a member of this Court's Criminal Justice Act ("CJA") Death Penalty panel of attorneys,^{*} and has represented petitioners in approximately ten federal habeas corpus cases in this Court. [*Id.*] Based on Mr. Kendrick's stated experience and on the lack of objection from Respondents, the Court grants the

^{*}The Court refers to the CJA Death Penalty Panel Attorney List revised February 8, 2016.

motion to substitute counsel, appoints Joshua Kendrick, Esquire, as second chair counsel in this matter, and relieves Marta K. Kahn, Esquire, as counsel in this matter.

IT IS SO ORDERED.

s/Jacquelyn D. Austin
United States Magistrate Judge

February 11, 2016
Greenville, South Carolina