

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

JEFFREY HAVARD

PETITIONER

VS.

CIVIL ACTION NO. 5:08CV275KS

**CHRISTOPHER EPPS, Commissioner,
Mississippi Department of Corrections
and JIM HOOD, Attorney General, State
of Mississippi**

RESPONDENTS

**ORDER APPOINTING COUNSEL AND GRANTING
MOTION TO PROCEED IN FORMA PAUPERIS**

This matter came before the Court on Petitioner's Motion for Appointment of Counsel and his Motion to Proceed *in Forma Pauperis*. Jeffrey Havard was convicted in the Circuit Court of Adams County, Mississippi, of capital murder, and he has been sentenced to death. His conviction and sentence were affirmed by the Mississippi Supreme Court on February 9, 2006 (*Havard v. State*, 928 So. 2d 771 (Miss. 2006)), and his petition for post-conviction relief was denied by that court on May 22, 2008 (*Havard v. State*, No. 2006-DR-1161SCT, 2008 WL 2139564 (Miss. 2008)).

Having reviewed Petitioner's Motions, the Court finds that Havard has provided evidence of his indigence, and he has shown that he is financially unable to otherwise obtain adequate representation. Therefore, both Motions will be granted. The Court further finds that Mark Jicka qualifies to serve as lead counsel, pursuant to 18 U.S.C. § 3599(c). This being a complex proceeding in which Petitioner seeks to vacate a death sentence, the Court is of the opinion that good cause exists for the appointment of a second attorney in this matter, and William Goodwin qualifies for appointment under § 3599(d). These appointments are for the purpose of preparing and filing Havard's federal petition and not for any state court proceedings.

Havard represents to the Court that, in order to satisfy the statute of limitations provided by 28 U.S.C. §2244(d), his habeas petition is due on or about April 13, 2009, and the Court will set that date as the deadline by which Havard's petition for habeas corpus relief must be filed. However, Havard is ultimately responsible for determining the actual date that the limitations period expires, and he is responsible for filing his petition in a timely fashion. Therefore, if the statute of limitations expires prior to April 13, 2009, Havard must still timely file his petition. Counsel for Respondents is hereby directed to file an answer to the petition within sixty days of service, without awaiting further Court order, and the schedule for further pleadings is set out below.

IT IS, THEREFORE, ORDERED, as follows:

1. Havard's Motion to Proceed *in Forma Pauperis* [2] is hereby **granted**.
2. Mark Jicka and William Goodwin are hereby appointed as counsel for the Petitioner in all proceedings arising from his petition for writ of habeas corpus in this case, to include preparation and filing of the petition.
3. The Court shall send to said counsel all forms and vouchers necessary to permit them to comply with the requirements for obtaining reimbursement for expenses and payment for attorneys fees for services rendered in connection with this cause. All requests for compensation and/or reimbursement of expenses shall be submitted on the proper CJA forms and will be reviewed in accordance with the CJA procedures in effect in this District.
4. Havard's Petition for Writ of Habeas Corpus shall be filed on or before April 13, 2009, **or on the day prior to the expiration of the statute of limitations for filing same, whichever occurs first.**

IT IS FURTHER ORDERED that, after Petitioner's attorneys file a timely petition for writ of habeas corpus, Respondents shall answer that petition within sixty days. Respondents shall file a complete copy of the state court record with the Court within thirty days of service of the answer. Petitioner must file and serve, not later than sixty days after service of the answer, a memorandum of law in support of his Petition. Respondents must file a responsive memorandum within sixty days of service of the Petitioner's supporting memorandum, and Petitioner may serve a reply to the response within thirty days of service of the response.

IT IS SO ORDERED, this the 15th day of September, 2008.

s/Keith Starrett
UNITED STATES DISTRICT JUDGE