

DEATH PENALTY

1 MICHAEL LAURENCE, State Bar No. 121854
2 PATRICIA DANIELS, State Bar No. 162868
3 HABEAS CORPUS RESOURCE CENTER
4 303 Second Street, Suite 400 South
5 San Francisco, California 94107
6 Telephone: (415) 348-3800
7 Facsimile: (415) 348-3873
8 Email: MLaurence@hrcr.ca.gov
9 Docketing@hrcr.ca.gov

10 Attorneys Appearing Specially for Ernest Dewayne Jones

*lodged
proposed
orders*

BY [Signature]
CLERK, U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES
2009 MAR 27 PM 3:44

FILED

11 UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA
13 **CV09-02158** CJC

14 ERNEST DEWAYNE JONES,
15 Petitioner,
16 v.
17 ROBERT K. WONG, Acting Warden of
18 California State Prison at San Quentin,
19 Respondent.

Case No. _____
DEATH PENALTY CASE
EX PARTE APPLICATION FOR
APPOINTMENT OF COUNSEL;
REQUEST FOR STAY OF
EXECUTION AND STATUS
CONFERENCE; NOTICE OF
INTENTION TO FILE PETITION
FOR WRIT OF HABEAS CORPUS;
AND DECLARATIONS IN SUPPORT

20 Petitioner ERNEST DEWAYNE JONES, a prisoner of the State of California,
21 hereby gives notice pursuant to United States Code, Title 18, section 3006A, and Local
22 Rules of Practice of the United States District Court for the Central District of
23 California, Rules 83-17.3(a) and (b), 83-17.4(a), and 83-17.6(a) and (c), that he intends
24 to file a petition for writ of habeas corpus to seek relief from the judgment of the
25 Superior Court of Los Angeles County, State of California, entered in Los Angeles
26 County Superior Court Case No. BA 063825, finding him guilty of first degree murder
27 and imposing a sentence of death upon him, and requests the appointment of counsel
28 for that purpose.

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EX PARTE APPLICATION FOR APPOINTMENT OF COUNSEL;
REQUEST FOR STAY OF EXECUTION AND STATUS CONFERENCE;
NOTICE OF INTENTION TO FILE PETITION FOR WRIT OF HABEAS CORPUS;
AND DECLARATIONS IN SUPPORT

1 Mr. Jones has not previously sought habeas relief arising out of this matter from
2 this Court or any other federal court.

3 Mr. Jones's death sentence was affirmed by the California Supreme Court on
4 April 30, 2003.¹ *People v. Jones*, 29 Cal.4th 1229, 131 Cal.Rptr.2d 468 (2003). The
5 United States Supreme Court denied a petition for certiorari on October 14, 2003.
6 *Jones v. California*, 540 U.S. 952 (2003). On March 11, 2009, the California Supreme
7 Court denied Mr. Jones's timely filed Petition for Writ of Habeas Corpus and Second
8 Petition for Writ of Habeas Corpus. Copies of those orders are attached to this
9 Application. State habeas counsel is appearing specially on Mr. Jones's behalf for the
10 purpose of filing this notice, applying for a stay of execution to permit the appointment
11 of counsel and litigation of proceedings pursuant to 28 U.S.C. section 2254, and
12 seeking appointment as counsel.

13 Mr. Jones requests that the Habeas Corpus Resource Center (HCRC), which has
14 represented Mr. Jones before the California Supreme Court since October 2000 in state
15 habeas corpus proceedings, be appointed to represent him. Mr. Jones further requests
16 a status conference to establish a due date for the filing of a petition for relief pursuant
17 to 28 U.S.C. section 2254, the Warden's Answer thereto and any Traverse that Mr.
18 Jones may wish to file.

19 State habeas counsel believe that there are multiple meritorious claims of
20 violations of Mr. Jones's federal constitutional rights that will be presented to this
21 Court in a petition for writ of habeas corpus. Counsel will request a reasonable period
22 within which to continue the investigation in anticipation of presenting all meritorious
23 claims in a petition filed with the Court.

24 In light of the above, Mr. Jones requests that the Court:

25 (a) Issue an immediate stay of execution to permit the appointment of counsel

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27 ¹ The California Supreme Court issued its opinion on March 17, 2003. *People v.*
28 *Jones*, 29 Cal. 4th 1229, 131 Cal. Rptr.2d 468 (2003). The opinion was modified but
not changed as to judgment on April 30, 2003.

1 in federal habeas proceedings;

2 (b) Grant Mr. Jones's request for the appointment of the Habeas Corpus
3 Resource Center to represent him in proceedings before this Court; and

4 (c) Schedule a status conference for the purpose of establishing a litigation
5 schedule for the filing of the petition, answer, and traverse.

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7 Dated: March 26, 2009

Respectfully submitted,

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HABEAS CORPUS RESOURCE CENTER

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By: Michael Laurence
MICHAEL LAURENCE
Attorneys for Ernest Dewayne Jones

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DECLARATION OF MICHAEL LAURENCE

I, MICHAEL LAURENCE, declare as follows:

1. I am an attorney at law admitted to practice by the State of California and before this Court and am the Executive Director of the Habeas Corpus Resource Center (HCRC). On October 20, 2000, the California Supreme Court appointed the HCRC to represent Ernest Jones in habeas corpus/executive clemency proceedings stemming from his convictions and judgment of death, in place of state appellate counsel who the court previously had appointed. I was lead counsel in the state habeas corpus proceedings.

2. The HCRC was created as a state entity in the California judicial branch of the state government, effective January 1, 1998, by Senate Bill 513 (Ch. 869, 1997 Stats.). The mandate of the HCRC includes providing timely, high quality legal representation for indigent petitioners in death penalty habeas corpus proceedings before the California Supreme Court and the federal courts. The California Supreme Court has appointed the HCRC to represent seventy-six death-row inmates in state proceedings. In addition, the agency currently represents or has represented ten California inmates in federal habeas corpus proceedings.

3. The HCRC is available to continue its representation of Mr. Jones in federal proceedings challenging his convictions and sentence of death. The HCRC has been appointed in this Court in five death penalty proceedings pursuant to 28 U.S.C. § 2254: *Ruiz v. Ayers*, CV 89-4126 FMC; *Cox v. Ayers*, 92-3370 CBM; *Fudge v. Woodford*, CV 95-5369-DDP; *Coffman v. Patrick*, CV 06-7304 ABC; and *Taylor v. Ayers*, 07-CV-6602-GW. I am counsel of record in the *Taylor* case. I was counsel of record in *Ruiz* (before Mr. Ruiz died in January 2007), and I was co-counsel in the *Cox* matter. I have represented numerous condemned prisoners in state and federal post-conviction proceedings and meet the qualifications for continued representation of Mr. Jones. Patricia Daniels, who is a staff attorney currently assigned to Mr. Jones's case,

1 has worked on Mr. Jones's case since the HCRC was appointed in October 2000, and
2 is available to represent him in proceedings before this Court.

3 4. I believe that the HCRC's continued representation of Mr. Jones is in his
4 best interests and the interest of justice. The record on appeal in Mr. Jones's case
5 consists of thirty-two volumes of reporter's transcripts and twenty-eight volumes of
6 clerk's transcripts. Additionally, there are thousands of pages of trial file and post-
7 conviction discovery and investigation materials.

8 5. At the time of the HCRC's October 2000 appointment to represent Mr.
9 Jones in state habeas proceedings, Mr. Jones was indigent. Mr. Jones remains indigent
10 today.

11 6. I have prepared the Application for Appointment of Counsel and Request
12 for Stay of Execution. The information contained therein is true and correct.

13 I declare under penalty of perjury under the laws of the United States and the
14 State of California that the foregoing is true and correct and that this declaration was
15 executed on March 26, 2009.

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18 
19 MICHAEL LAURENCE

SUPREME COURT
FILED

MAR 11 2009

Frederick K. Ohlrich Clerk

S110791

Deputy

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re ERNEST DEWAYNE JONES on Habeas Corpus

The petition for writ of habeas corpus, filed December 3, 2003, is denied.
All claims are denied on the merits.

To the extent they were raised and rejected on appeal, and except insofar as they allege ineffective assistance of counsel, paragraph 2 of Claim Q, and Claims B, C, M and U are barred by *In re Waltreus* (1965) 62 Cal.2d 218, 225.

To the extent they were not raised on appeal, and except insofar as they allege ineffective assistance of counsel, paragraph 1 of Claim G, paragraphs 3 and 4 of Claim H, Claim I (with the exception of paragraph 5, subdivision (c)), Claim Q (with the exception of paragraph 2), and all of Claims C, K, L, M, P, R, and U are barred by *In re Harris* (1993) 5 Cal.4th 813, 825 & fn. 3, 826-829, and *In re Dixon* (1953) 41 Cal.2d 756, 759.

Except to the extent they allege ineffective assistance of trial counsel, paragraphs 1 and 2 of Claim H, paragraph 5(c) of Claim I, and Claims N and Y are denied because petitioner failed to raise them in the trial court. (*In re Seaton* (2004) 34 Cal.4th 193.)

To the extent Claim K alleges insufficiency of the evidence, it is not cognizable on habeas corpus. (*In re Lindley* (1947) 29 Cal.2d 709, 723.)

Justice Werdegar would not hold that any of petitioner's claims are barred under *In re Seaton* (2004) 34 Cal.4th 193, 201.

GEORGE

Chief Justice

SUPREME COURT
FILED

MAR 16 2009

Frederick K. Ohlrich Clerk

Deputy

S110791

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re ERNEST DEWAYNE JONES on Habeas Corpus

The order filed on March 11, 2009, is amended to read, in its entirety;
“The petition for writ of habeas corpus, filed October 21, 2002, is denied.
All claims are denied on the merits.

To the extent they were raised and rejected on appeal, and except insofar as they allege ineffective assistance of counsel, paragraph 2 of Claim Q, and Claims B, C, M and U are barred by *In re Waltreus* (1965) 62 Cal.2d 218, 225.

To the extent they were not raised on appeal, and except insofar as they allege ineffective assistance of counsel, paragraph 1 of Claim G, paragraphs 3 and 4 of Claim H, Claim I (with the exception of paragraph 5, subdivision (c)), Claim Q (with the exception of paragraph 2), and all of Claims C, K, L, M, P, R, and U are barred by *In re Harris* (1993) 5 Cal.4th 813, 825 & fn. 3, 826-829, and *In re Dixon* (1953) 41 Cal.2d 756, 759.

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GEORGE

Chief Justice

SUPREME COURT
FILED

MAR 11 2009

Frederick K. Ohlrich Clerk

~~Deputy~~

S159235

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re ERNEST DEWAYNE JONES on Habeas Corpus

The petition for writ of habeas corpus, filed October 16, 2007, is denied.

GEORGE

Chief Justice
