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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

RICHARD A. LEAVITT,)	
)	CASE NO. CV-93-0024-S-BLW
Petitioner,)	
)	CAPITAL CASE
vs.)	
)	EMERGENCY MOTION FOR
A.J. ARAVE, Warden of the Idaho State)	ACCESS TO PETITIONER BY
Maximum Security Prison,)	EXPERT AND FOR ORDER
)	SHORTENING TIME FOR
Respondent.)	RESPONSE
_____)	

Petitioner Richard A. Leavitt, through counsel, moves the Court for its Order directing the state to permit an expert witness, Charles Honts, Ph.D., a professor of psychology at Boise State University, to have access to Petitioner at 1:00 p.m. today, May 18, 2012, along with appropriate testing materials, to assist counsel.

Good cause exists for this motion in that the denial of access to the Petitioner of experts hired by his counsel and authorized by this Court will deny Petitioner due

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process of law in presenting his claim for commutation of his sentence as well as possible development of his Rule 60(b) motion which is currently pending before this Court.

The present motion is made because counsel had previously arranged a visit for Dr. Honts to occur at 1:00 pm today. However, yesterday the state apparently obtained and served on Mr. Leavitt – in this case which has been pending for some 28 years – a death warrant which sets his execution for June 12, 2012. This morning, apparently in reliance on I.C. § 19-2705(3), representatives of the Idaho Maximum Security Institution advised counsel that Dr. Honts' visit would not be permitted absent a court order.

It appears that the state, having moved with great dispatch to set Mr. Leavitt's execution at the earliest possible time, is now making every effort to prevent counsel from effectively representing Mr. Leavitt and presenting his Rule 60(b) motion and commutation petition.

Accordingly, we respectfully request that the Court enter its Order directing the state of Idaho to permit Dr. Honts access to Mr. Leavitt at 1:00 pm today; and that it shorten the time for the Respondent to respond to the present motion so as to permit the order to issue immediately, on an emergency basis.

The factual basis for this motion is set forth in detail in the contemporaneously filed affidavit of counsel.

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Anderson, LaMont

From: ecf@id.uscourts.gov
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District of Idaho (LIVE Database)Version 5.1.1

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Case Name: Leavitt v. Arave
Case Number: 1:93-cv-00024-BLW
Filer: Richard A Leavitt
WARNING: CASE CLOSED on 09/28/2007
Document Number: 325

Docket Text:

Emergency MOTION Access by Expert and to Shorten Time for Response David Z Nevin appearing for Petitioner Richard A Leavitt. Responses due by 6/11/2012 (Attachments: # (1) Affidavit)(Nevin, David)

1:93-cv-00024-BLW Notice has been electronically mailed to:

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