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UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

PAUL EZRA RHOADES,)	DOCKET NO. <u>11-80283</u>
)	
Petitioner,)	CAPITAL CASE
)	
v.)	EMERGENCY MOTION UNDER
)	CIRCUIT RULE 27-3 TO PROCEED
RANDY BLADES, Warden,)	<i>IN FORMA PAUPERIS</i> AND FOR
Idaho Maximum Security)	APPOINTMENT OF COUNSEL
Institution.)	
)	Execution Scheduled
Respondent.)	November 18, 2011 at 8:00 am
_____)	

CIRCUIT RULE 27-3 CERTIFICATE

Attorneys for
Petitioner

Attorneys for
Respondent

CAPITAL HABEAS UNIT

ATTORNEY GENERAL OF IDAHO

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FACTS SUPPORTING EMERGENCY MOTION FOR STAY OF EXECUTION

Petitioner, Paul Ezra Rhoades, is before this Court on an emergency request for a stay of execution and to leave to file a successive habeas petition. Mr. Rhoades moves this Court for an order to proceed *In Forma Pauperis* and for Appointment of Counsel. Mr. Rhoades's execution is currently scheduled for November 18, 2011, at 8:00 a.m.

Pursuant to F.R.A.P. 24, Petitioner, Paul Ezra Rhoades, seeks emergency leave of this court to proceed *in forma pauperis*. An affidavit showing Mr. Rhoades' inability to pay or to give security for fees and costs is attached and filed

EMERGENCY MOTION UNDER CIRCUIT RULE 27-3 TO PROCEED
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concurrently herewith as Exhibit 1. In support of this application, undersigned counsel represents as follows:

1. Petitioner is incarcerated at the Idaho Maximum Security Institution in Boise, Idaho and was incarcerated in various county jails since he was arrested in March of 1987.

2. Petitioner was originally represented in state and federal court proceedings by counsel appointed by the court as a result of a court finding of indigency. After conviction and sentencing, Petitioner was also represented by court appointed counsel throughout appellate proceedings. Petitioner has been continuously incarcerated since his arrest and conviction and remains indigent and unable to afford to hire an attorney to represent him in proceedings before this court.

3. Petitioner was previously granted a motion for *in forma pauperis* by the United States District Court in case numbers: CV 93-0156-S-EJL, Dkt. 6; CV 93-0155-S-EJL, Dkt. 7; and CV 11-00445-REB, Dkt. 68.

4. Petitioner does not have money for filing fees in this Court.

NOTICE OF SERVICE ON OPPOSING COUNSEL

On the 16th day of November, 2011, I filed the foregoing electronically through the Appellate ECF system and served the same on the above identified attorney for Respondent via email as indicated above.

Respectfully submitted this 16th day of November, 2011.

/s/

Oliver W. Loewy

Attorney for Paul Ezra Rhoades