UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

United States of America,

Respondent,

vs.

AFFIDAVIT OF JACK NORDBY

Ralph Chavous Duke,

Petitioner.

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

Jack Nordby, being first duly sworn upon oath, states and deposes as follows:

- 1. I am currently employed as a Hennepin County District Court Judge, chambered in Minneapolis, Minnesota.
- 2. In 1993, I was employed as an attorney at Meshbesher & Spence, Ltd., in Minneapolis, Minnesota. Sometime in either September or October 1993, Kenneth Meshbesher, a senior partner at that law firm, asked me to represent Ralph Duke on a federal habeas appeal to the Eighth Circuit Court of Appeals.
- 3. I ascertained that Mr. Duke had filed a § 2255 motion prose, while incarcerated at the Leavenworth U.S. Penitentiary, on January 6, 1993. Another Leavenworth inmate had furnished Mr. Duke with materials from his trial indicating that Andrew Chambers lied about his criminal record at Mr. Duke's trial. United States District Court Judge David S. Doty denied Mr. Duke's prose habeas petition on August 16, 1993.

- 4. While still **pro se**, Mr. Duke filed a motion for reconsideration of Judge Doty's order on September 2, 1993. Concerned about perfecting a timely appeal, despite the pending **pro se** motion for reconsideration, I filed both a notice of appeal and a motion to proceed in forma pauperis with the Eighth Circuit on October 13, 1993.
- 5. Mr. Duke filed an affidavit in support of the in forma pauperis appeal motion on October 22, 1993, and Judge Doty granted that motion on November 8, 1993.
- 6. I moved the Eighth Circuit to appoint me as Mr. Duke's counsel under the Criminal Justice Act on December 1, 1993, and the Court of Appeals granted that motion on December 22, 1993.
- 7. I filed appellant's brief with the Eighth Circuit in Mr. Duke's habeas appeal on March 8, 1994, and argued his case orally to the Court of Appeals on October 11, 1994.
- 8. I never requested and, consequently, never received any money for representing Mr. Duke under the Criminal Justice Act or from any other source.
 - 9. Further your affiant sayeth naught.

Jack Nordby

Subscribed and sworn to before me this _____, 2001

Notary Public

