

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JERRY NOBLE KENNEDY,)	Case No. 2:13-cv-02041-LKK-KJN
)	
Petitioner,)	<u>DEATH PENALTY CASE</u>
)	NO EXECUTION DATE SET
v.)	
)	ORDER STAYING
KEVIN CHAPPELL, Warden of)	EXECUTION, GRANTING <i>IN</i>
California State Prison at San Quentin,)	<i>FORMA PAUPERIS</i> MOTION,
)	AND APPOINTING COUNSEL
Respondent.)	
_____)	

On October 1, 2013, Petitioner Jerry Noble Kennedy, a state prisoner facing capital punishment, filed a request for appointment of counsel, for stay of execution, and to proceed in forma pauperis, in the Eastern District of California pursuant to 28 U.S.C. § 2254.

Rule 3(a) of the Rules Governing § 2254 Cases provides that a petitioner seeking in forma pauperis status shall file an affidavit of assets as required by 28 U.S.C. § 1915, as well as a certificate from the prison stating the amount on deposit in the petitioner’s

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28


account. Mr. Kennedy has filed a supporting declaration with his request for in forma pauperis status, asserting he is indigent and has only minimal assets.

IT IS HEREBY ORDERED that:

1. Mr. Kennedy's request to proceed *in forma pauperis* granted;
2. Mr. Kennedy's application for appointment of counsel is granted. Counsel will be appointed following notice from the Eastern District Selection Board either that the Federal Defender, Capital Habeas Unit, or that other qualified counsel available for appointment has been identified;
3. There being no schedule execution date pending, Mr. Kennedy's request for a stay of execution is denied without prejudice to renewal should any proceedings related to the execution of his sentence of death, including preparation for execution and the setting of an execution date, be instituted in state court during the pendency of the instant proceedings.

IT IS SO ORDERED.

Dated: October 4, 2013


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE