

United States District Court  
Northern District of California

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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

MIGUEL ANGEL BACIAGALUPO,

Case No. 94-02761 (BLF)

Petitioner,

v.

ORDER RE APPOINTMENT OF  
COUNSEL AND LITIGATION  
SCHEDULE

KEVIN CHAPPELL, Warden

Respondent.

Petitioner Miguel Angel Baciagalupo was originally sentenced to death. The death judgment has since been reversed by the California Supreme Court. *In re Baciagalupo*, 55 Cal. 4th 312 (2012). Respondent has elected not to re-seek the death penalty, and in 2014, petitioner was re-sentenced in state court to life without the possibility of parole. Accordingly, only his guilt-phase claims remain in his federal habeas petition.

There is no right to counsel in non-capital habeas corpus proceedings. *See Knaubert v. Goldsmith*, 791 F. 2d 722, 728 (9th Cir. 1986). Nonetheless, because petitioner is financially unable to obtain adequate representation and because the interests of justice so require, the Court appoints petitioner's current lead counsel, Robert R. Bryan, under the Criminal Justice Act to represent petitioner on his federal habeas petition. Mr. Bryan should seek reimbursement pursuant to 18 U.S.C. § 3006A(d) and (e) via the Federal Public Defender's Office.

As requested, co-counsel Kevin G. Little will be permitted to withdraw as federal counsel. Mr. Bryan's assistant counsel, Cheryl Cotterill, will not be substituted in for Mr. Little. As this matter is no longer a capital case, two attorneys are no longer necessary or justified.

Within sixty days of the date of this Order, the parties are ORDERED to meet and confer,

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and to submit a joint statement to the Court regarding the remaining claims to be litigated. In addition, the parties should submit a proposed order setting a schedule for briefing on the merits of the remaining claims. In the interests of efficiency and in order to avoid oversized briefs, the parties are directed to consider addressing the remaining claims in more than one motion (for example, by grouping together claims that have the same factual predicate).

Also within sixty days of the date of this Order, petitioner is ORDERED to file an electronic copy of his Petition for Writ of Habeas Corpus.

**IT IS SO ORDERED.**

Dated: November 24, 2014

  
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BETH LABSON FREEMAN  
United States District Judge