

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
SPRINGFIELD DIVISION**

LARRY E. MORFORD,)	
)	
Petitioner,)	
)	
v.)	No. 09-3096
)	
ANDREW K. OTT, Warden,)	
Graham Correctional Center,)	
)	
Respondent.)	

OPINION

JEANNE E. SCOTT, U.S. District Judge:

This cause is before the Court on Petitioner's Petition Under 28 U.S.C. § 2254 for a Writ of Habeas Corpus by a Person in State Custody (d/e 1) (Petition). This is the initial consideration of Petitioner's Petition under Rule 4 of the Rules Governing § 2254 Cases. Petitioner also filed a number of Motions, which are addressed below.

After a review of the Petition, this Court finds that a summary dismissal is not warranted. Therefore, pursuant to Rule 4, the Court directs the Attorney General for the State of Illinois to respond to Petitioner's Petition. The response shall discuss the merits and the procedural posture

of the Petition, i.e. whether Petitioner has exhausted his state remedies and/or procedurally defaulted any claims. See Rule 5 of the Rules Governing § 2254 Cases.

THEREFORE, the Attorney General for the State of Illinois is ordered to file an answer pursuant to Rule 5 of the Rules Governing 28 U.S.C. § 2254 Cases to Petitioner's Petition for a Writ of Habeas Corpus on or before July 17, 2009, and to provide the Court with a copy of trial transcripts on or before that date. Petitioner is granted 21 days from the time the answer is filed to file a reply.

Additionally, Petitioner filed a Motion for Leave to Proceed In Forma Pauperis (d/e 5). Petitioner has since paid his filing fee, however. THEREFORE, the Motion for Leave to Proceed In Forma Pauperis (d/e 5) is DENIED as moot.

Petitioner also filed a Motion for Appointment of Counsel (d/e 4). There is no guaranteed right to assistance of counsel in a civil case. DiAngelo v. Illinois Dept. of Public Aid, 891 F.2d 1260, 1262 (7th Cir. 1989). The Court has not determined yet whether it must hold a hearing on the Petition. If the Court finds it necessary to hold a hearing, at that time the Court will appoint counsel pursuant to Rule 8 of the Rules

Governing 28 U.S.C. § 2254 Cases. THEREFORE, Petitioner's Motion for Appointment of Counsel (d/e 4) is DENIED.

Petitioner also filed a Motion for Certification of Probable Cause of Appeal in 28 U.S.C. § 2254 Cases and Appointment of Counsel (d/e 6). Petitioner asks the Court to certify that he has raised substantial issues and is entitled "to have the denial of the Petition for Writ of Habeas Corpus, reviewed by the United States Court of Appeals, Seventh Circuit." Motion for Certification of Probable Cause of Appeal in 28 U.S.C. § 2254 Cases and Appointment of Counsel, at 1. The Court has not ruled on Petitioner's Petition, however, so this Motion is untimely. THEREFORE, the Motion for Certification of Probable Cause of Appeal in 28 U.S.C. § 2254 Cases and Appointment of Counsel (d/e 6) is DENIED.

IT IS THEREFORE SO ORDERED.

ENTER: April 29, 2009

FOR THE COURT:

s/ Jeanne E. Scott
JEANNE E. SCOTT
UNITED STATES DISTRICT JUDGE