Greene v. Burt Doc. 10

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION

BRIAN GREENE, #34	-51	3	1	•
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Petitioner,

v. CASE NO. 2:15-CV-13008 HONORABLE GERALD E. ROSEN

SHERRY BURT,

Respondent.	
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ORDER DENYING PETITIONER'S MOTION FOR APPOINTMENT OF COUNSEL

This is a habeas case brought pursuant to 28 U.S.C. § 2254. Petitioner, a Michigan prisoner, was convicted of conducting a criminal enterprise, larceny of \$1,000 or more but less than \$20,000, and larceny of \$20,000 or more following a jury trial in the Ogemaw County Circuit Court and was sentenced as a third habitual offender to concurrent terms of 10 to 40 years imprisonment, 2 to 10 years imprisonment, and 2 to 20 imprisonment in 2012. In his petition, he raises claims concerning the conduct of the prosecutor, the effectiveness of trial and appellate counsel, the sufficiency of the evidence, an amendment to the information, the jury instructions, and the state court's jurisdiction. This matter is before the Court on Petitioner's motion for appointment of counsel. Petitioner states that he is prison

inmate, that he cannot afford counsel, and that he has limited legal knowledge.

A state prisoner has no absolute right to be represented by counsel on federal

habeas review. See Abdur-Rahman v. Michigan Dept. of Corrections, 65 F.3d 489,

492 (6th Cir. 1995); see also Wright v. West, 505 U.S. 277, 293 (1992) (citing

Pennsylvania v. Finley, 481 U.S. 551, 555 (1987)). "[A]ppointment of counsel in

a civil case is . . . a matter within the discretion of the court. It is a privilege and not

a right." Childs v. Pellegrin, 822 F.2d 1382, 1384 (6th Cir. 1987) (quoting United

States v. Madden, 352 F.2d 792, 793 (9th Cir. 1965)). Petitioner has submitted his

habeas petition and supporting documents, but Respondent has not yet filed an

answer to the petition or the state court record. Neither an evidentiary hearing nor

discovery are necessary at this time, and the interests of justice do not require

appointment of counsel. See 18 U.S.C. § 3006A(a)(2)(B); Rules 6(a) and 8(c), Rules

Governing Section 2254 Cases. Accordingly, the Court **DENIES** Petitioner's motion

for appointment of counsel. The Court will bear in mind Petitioner's request if, upon

further review of the case, the Court determines that appointment of counsel is

required. Petitioner need not file an additional motion as to this issue.

IT IS SO ORDERED.

s/Gerald E. Rosen

Chief Judge, United States District Court

Dated: October 14, 2015

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I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on October 14, 2015, by electronic and/or ordinary mail.

s/Julie Owens

Case Manager, (313) 234-5135