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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

MERRY WEST,)	
)	
Petitioner,)	2:10-CV-02086-JCM-RJJ
)	
vs.)	
)	ORDER
SHERYL FOSTER,)	
)	
Respondent.)	

Petitioner Merry West has paid the required filing fee. Her petition shall be filed and served upon respondents. Petitioner has also filed a motion for appointment of counsel (docket #2). In that document, petitioner requests appointment of counsel. Petitioner is incarcerated for a term of ten years to life on a conviction for larceny from a person over 60 with a habitual criminal adjudication. In her petition for writ of habeas corpus, petitioner raises five claims for relief. The petition presents a coherent document.

There is no constitutional right to appointed counsel for a federal habeas corpus proceeding. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir. 1993). The decision to appoint counsel is generally discretionary. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986), *cert. denied*, 481 U.S. 1023 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), *cert. denied*, 469 U.S. 838 (1984). However, counsel must be appointed if the complexities of the case are such that denial of counsel would amount to a denial of due process, and where the

1 petitioner is a person of such limited education as to be incapable of fairly presenting his claims. See
2 *Chaney*, 801 F.2d at 1196; *see also Hawkins v. Bennett*, 423 F.2d 948 (8th Cir. 1970). The claims in
3 this case are not especially complex. Also, the court notes from the petition, and from the other
4 documents that petitioner has submitted to the court, that petitioner is able to present matters to the court
5 in an organized and understandable manner. Petitioner's motion shall be denied.

6 A petition for federal habeas corpus should include all claims for relief of which
7 petitioner is aware. If petitioner fails to include such a claim in his petition, he may be forever barred
8 from seeking federal habeas relief upon that claim. *See* 28 U.S.C. §2254(b) (successive petitions). If
9 petitioner is aware of any claim not included in his petition, he should notify the court of that as soon
10 as possible, perhaps by means of a motion to amend his petition to add the claim.

11 **IT IS THEREFORE ORDERED** that the clerk shall **FILE and ELECTRONICALLY**
12 **SERVE** the petition (docket #-1-1) upon the respondents.

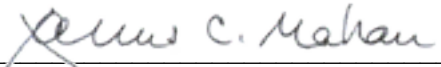
13 **IT IS FURTHER ORDERED** that respondents shall have **forty-five (45)** days from
14 entry of this order within which to answer, or otherwise respond to, the petition. In their answer or other
15 response, respondents shall address any claims presented by petitioner in her petition. Respondents shall
16 raise all potential affirmative defenses in the initial responsive pleading, including lack of exhaustion
17 and procedural default. **Successive motions to dismiss will not be entertained.** If an answer is filed,
18 respondents shall comply with the requirements of Rule 5 of the Rules Governing Proceedings in the
19 United States District Courts under 28 U.S.C. §2254. If an answer is filed, petitioner shall have **forty-**
20 **five (45) days** from the date of service of the answer to file a reply.

21 **IT IS FURTHER ORDERED** that, henceforth, petitioner shall serve upon the Attorney
22 General of the State of Nevada a copy of every pleading, motion, or other document he submits for
23 consideration by the court. Petitioner shall include with the original paper submitted for filing a
24 certificate stating the date that a true and correct copy of the document was mailed to the Attorney
25 General. The court may disregard any paper that does not include a certificate of service. After
26

1 respondents appear in this action, petitioner shall make such service upon the particular deputy attorney
2 general assigned to the case.

3 **IT IS FURTHER ORDERED** that the motion for appointment of counsel (docket #2)
4 is **DENIED**.

5 Dated this 31st day of January, 2011.

6 
7 UNITED STATES DISTRICT JUDGE

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