

- 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

CODY LEAVITT,)	
)	
Petitioner,)	Case No. 2:12-cv-00987-JCM-CWH
)	
vs.)	ORDER
)	
DWIGHT NEVEN, <i>et al.</i> ,)	
)	
Respondents.)	
	/	

Petitioner has filed a *pro se* motion for the substitution of counsel. (ECF No. 43). Petitioner asks the court to appoint him different counsel. (*Id.*). On July 6, 2012, this court granted petitioner's motion for the appointment of counsel and appointed the federal public defender to represent petition in this habeas proceeding and in case number 2:12-cv-00625-MMD-NJK. (ECF No. 6). The federal public defender filed a notice of conflict on August 6, 2012. (ECF No. 11). Therefore, on August

1 15, 2012, this court appointed attorney Todd Leventhal to represent petitioner in this action. (ECF
2 No. 12). The court previously denied Leventhal's motion to withdraw as counsel, and ordered him
3 to return his attentions to this mater after a brief stay allowing him to attend to other items on the
4 court's docket. (ECF No. 25). Petitioner's counsel filed an amended petition on October 15, 2013.
5 (ECF No. 36). The state is in the process of preparing a response to the amended petition.
6 Petitioner asks the court to substitute another attorney in place of court-appointed counsel, Todd
7 Leventhal. There is no constitutional right to appointed counsel for a federal habeas corpus
8 proceeding. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428
9 (9th Cir. 1993). Petitioner has been appointed counsel, Todd Leventhal, in this action and in case
10 number 2:12-cv-00625-MMD-NJK. Petitioner is not entitled to his choice of counsel when the court
11 has already appointed counsel. In the interests of justice, petitioner's motion for substitution of
12 counsel is denied. The court further orders petitioner to refrain from filing further *pro se* pleadings
13 in this action, and instead proceed through counsel, pursuant to Local Rule, Part IA 10-6(a). Any
14 further documents filed by petitioner in *pro se* shall be stricken.

15 **IT IS THEREFORE ORDERED** that respondents' motion for an extension of time (ECF
16 No. 45) to file an answer or other response to the amended petition is **GRANTED**. Respondents'
17 answer or other response to the amended petition shall be filed on or before **March 7, 2014**.

18 **IT IS FURTHER ORDERED** that petitioner's *pro se* motion for substitution of counsel
19 (ECF No. 43) is **DENIED**.

20 **IT IS FURTHER ORDERED** that any further documents filed by petitioner in *pro se* shall
21 be stricken from the record. Petitioner shall proceed through appointed counsel in this action.

22 Dated March 3, 2014.

23
24 
25 UNITED STATES DISTRICT JUDGE
26