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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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MICHAEL DEAN ADKISSON,

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Petitioner,

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vs.

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D.W. NEVEN, *et al.*,

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Respondents.

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Case No. 2:14-cv-01934-APG-CWH

ORDER

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This action is a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

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On April 13, 2015, this court granted a stay and administratively closed petitioner's federal habeas corpus action so that he could exhaust certain grounds in his petition (Dkt. #7).

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Petitioner's further state-court proceedings have concluded, and petitioner has now returned to this court seeking to reopen this case and the appointment of counsel (Dkt. #s 9, 10, 11).¹ Good cause appearing, this action is reopened.

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With respect to the appointment of counsel, 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.

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¹ Petitioner filed one document that he styled motion to lift stay, reopen case and renewed motion for appointment of counsel, which was docketed as three motions (Dkt. #s 9, 10, 11). The court shall refer to the motion as Dkt. #9.

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1 *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986), *cert. denied*, 481 U.S. 1023 (1987); *Bashor v.*
2 *Risley*, 730 F.2d 1228, 1234 (9th Cir.), *cert. denied*, 469 U.S. 838 (1984). However, counsel must be
3 appointed if the complexities of the case are such that denial of counsel would amount to a denial of
4 due process, and where the petitioner is a person of such limited education as to be incapable of fairly
5 presenting his claims. *See Chaney*, 801 F.2d at 1196; *see also Hawkins v. Bennett*, 423 F.2d 948 (8th
6 Cir. 1970). Here, it appears that the claims may be somewhat complex. Additionally, petitioner is
7 serving two consecutive life sentences without the possibility of parole. Accordingly, petitioner's
8 motion for appointment of counsel is granted.

9 **IT IS THEREFORE ORDERED** that petitioner's motion to lift stay, reopen this action and
10 renewed motion for counsel (Dkt. #s 9, 10, 11) is **GRANTED**.

11 **IT IS FURTHER ORDERED** that, as the stay is lifted by this order, the Clerk shall **REOPEN**
12 **THE FILE** in this action.

13 **IT IS FURTHER ORDERED** that the Federal Public Defender for the District of Nevada
14 ("FPD") is appointed to represent petitioner.

15 **IT IS FURTHER ORDERED** that the Clerk shall **ELECTRONICALLY SERVE** the FPD
16 a copy of this order, together with a copy of the petition for writ of habeas corpus (Dkt. #8). The FPD
17 shall have thirty (30) days from the date of entry of this order to file a notice of appearance or to indicate
18 to the court its inability to represent petitioner in these proceedings.

19 **IT IS FURTHER ORDERED** that, after counsel has appeared for petitioner in this case, the
20 court will issue a scheduling order, which will, among other things, set a deadline for the filing of a first
21 amended petition.

22 **IT IS FURTHER ORDERED** that the Clerk shall **ELECTRONICALLY SERVE** a copy of
23 this order, together with a copy of the petition for writ of habeas corpus (Dkt. #8), on respondents.
24 Respondents need take no action until further order by this court.

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26 Dated this 29th day of May, 2015.

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UNITED STATES DISTRICT JUDGE