UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

* * *

BRANDYN WILLIAM GAYLER,

Petitioner,

v.

WARDEN NEVEN, *et al.*,

Respondents.

Case No. 2:15-cv-00972-APG-CWH

ORDER DENYING (1) MOTION TO COMPEL, (2) MOTION FOR APPOINTMENT OF COUNSEL, AND (3) MOTION TO STRIKE

(ECF Nos. 10, 20, 22)

Petitioner Brandyn Gayler moved to compel a copy of the first amended judgment of conviction in his underlying criminal proceedings. ECF No. 10. The respondents provided that document as an exhibit to their motion to dismiss. ECF No. 13-28. I therefore deny Gayler's motion to compel as moot.

Gayler also moved for appointment of counsel. ECF No. 20. I previously denied a similar request (ECF No. 7) and there is no basis to reconsider that decision. I therefore deny Gayler's motion to appoint counsel.

Finally, Gayler moves to strike the respondents' reply brief related to the motion to dismiss. Gayler argues the court did not order the respondents to file a reply. ECF No. 22. He also argues the respondents did not address all claims presented in the petition and supplements as ordered.

My prior order directed the respondents to answer or "otherwise respond to" Gayler's petition and the supplements. ECF No. 7 at 3. The respondents otherwise responded by filing a motion to dismiss. A reply ordinarily is permitted when filing a motion to dismiss. Thus, the fact that I did not specifically mention a reply brief in my order does not warrant striking the respondents' reply brief. Additionally, I directed the respondents to "address all claims presented in the petition and supplements." *Id.* By that I meant that the respondents should respond to the claims in both the petition and in all supplements that had been filed. I did not mean that the

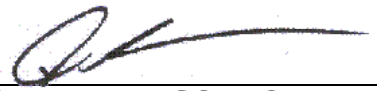
respondents had to address claims in a motion to dismiss even if they were not moving to dismiss those claims. I therefore deny Gayler's motion to strike.

IT IS THEREFORE ORDERED that plaintiff Brandyn Gayler's motion to compel **(ECF No. 10) is DENIED**.

IT IS FURTHER ORDERED that plaintiff Brandyn Gayler's motion for appointment of counsel **(ECF No. 20) is DENIED**.

IT IS FURTHER ORDERED that plaintiff Brandyn Gayler's motion to strike **(ECF No. 22) is DENIED**.

DATED this 26th day of September, 2016.



ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE