

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3  
4 Manuel Melendez,  
5 Petitioner

6 v.

7 Dwight Neven, et al.,  
8 Respondents

2:15-cv-02076-JAD-VCF

**Order**

[ECF Nos. 29, 32]

9  
10 Petitioner Manuel Melendez is represented in this 28 U.S.C. § 2254 habeas  
11 corpus action by Cal Potter III and Cal Potter IV of Potter Law Offices. The Potters  
12 filed a motion to withdraw as counsel<sup>1</sup> and a motion to stay proceedings<sup>2</sup> to allow  
13 Melendez an opportunity to retain new counsel. The Potters assert that Potter III  
14 can no longer represent Melendez due to his present physical condition and that  
15 Potter IV cannot continue the representation without the assistance of Potter III.  
16 Melendez opposes the motion to withdraw.<sup>3</sup> In the alternative, Melendez moves for  
17 appointment of counsel<sup>4</sup> and requests an order requiring counsel to provide him  
18 with his case file.<sup>5</sup> Good cause exists to grant the Potters' motion to withdraw. But  
19 in light of Melendez's motion for his case file and his motion for appointment of  
20 counsel, I defer my motion-to-withdraw order until I know whether Melendez will  
21 be represented by new counsel or himself.

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23 <sup>1</sup> ECF No. 30.

24 <sup>2</sup> ECF No. 29.

25 <sup>3</sup> ECF No. 31.

26 <sup>4</sup> ECF No. 32.

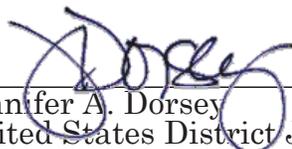
27 <sup>5</sup> ECF No. 33.  
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1 Under 18 U.S.C. § 3006A(a)(2)(B), the court may appoint counsel for a  
2 petitioner seeking relief under 28 U.S.C. § 2254 if the petitioner is financially  
3 eligible and the court determines that appointment of counsel would be in the  
4 interests of justice. Melendez's motion for appointment of counsel does not,  
5 however, establish that he is financially eligible or that appointment of counsel is in  
6 the interests of justice.

7 Accordingly, IT IS HEREBY ORDERED that Melendez's motion for  
8 appointment of counsel [ECF No. 32] is DENIED without prejudice. Melendez has  
9 until December 7, 2017, to hire new counsel or seek other appropriate relief,  
10 including the filing of a renewed motion for appointment of counsel. If Melendez  
11 does not do so within that time period, this case will proceed as a pro se action, with  
12 Melendez representing himself without the assistance of counsel.

13 IT IS FURTHER ORDERED that, in order to give Melendez an opportunity  
14 to retain new counsel or seek other appropriate relief, the motion to stay  
15 proceedings [ECF No. 29] is GRANTED. This case is STAYED until further order  
16 of the court.

17 DATED: November 7, 2017.

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20 Jennifer A. Dorsey  
21 United States District Judge  
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