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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

PHILLIP SHARPE,

*Petitioner,*

vs.

NEVIN, *et al.*,

*Respondents.*

2:16-cv-01841-JCM-VCF

ORDER

This is a habeas corpus proceeding under 28 U.S.C. § 2254 brought by Phillip Sharpe, a Nevada prisoner. On November 8, 2016, this court entered a screening order identifying defects in Sharpe's initial habeas petition and granting him leave to amend. ECF No. 8. On November 21, 2016, Sharpe filed an amended petition. ECF No. 10.

The court has screened the amended petition and concludes that the respondents shall be served with the amended petition and directed to respond to it. *See* Rule 4, Rules Governing § 2254 Cases in the U.S. District Courts.

In addition, Sharpe has filed a motion for the appointment of counsel. ECF No. 11. Pursuant to 18 U.S.C. §3006A(a)(2)(B), the district court has discretion to appoint counsel when it determines that the "interests of justice" require representation. 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 (9<sup>th</sup> Cir. 1993). The decision to appoint counsel is generally discretionary. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9<sup>th</sup> Cir. 1986); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9<sup>th</sup> Cir. 1984). However, counsel must be appointed if the complexities of the case are such that

1 denial of counsel would amount to a denial of due process, and where the petitioner is a person of such  
2 limited education as to be incapable of fairly presenting his claims. *See Chaney*, 801 F.2d at 1196; *see*  
3 *also Hawkins v. Bennett*, 423 F.2d 948, 950 (8th Cir. 1970). The petition on file in this action is  
4 sufficiently clear in presenting the issues that Sharpe wishes to bring. Also, the issues in this case are  
5 not particularly complex. It does not appear that appointment of counsel is warranted in this instance.  
6 Sharpe's motion for the appointment of counsel is denied.

7 **IT IS THEREFORE ORDERED** that the Clerk shall ELECTRONICALLY SERVE the  
8 amended petition for writ of habeas corpus (ECF No. 10) and a copy of this order on the respondents.

9 **IT IS FURTHER ORDERED** that the Clerk of the Court shall add Adam Paul Laxalt, Attorney  
10 General of the State of Nevada, as counsel for respondents.


11 **IT IS FURTHER ORDERED** that respondents shall file a response to the amended petition,  
12 including potentially a motion to dismiss, within **sixty (60) days** of the date of this order, with any  
13 requests for relief by petitioner by motion otherwise being subject to the normal briefing schedule under  
14 the local rules.

15 **IT IS FURTHER ORDERED** that petitioner shall have **thirty (30) days** from service of the  
16 answer, motion to dismiss, or other response to file a reply or opposition, with any other requests for  
17 relief by respondents by motion otherwise being subject to the normal briefing schedule under the local  
18 rules.

19 **IT IS FURTHER ORDERED** that any additional state court record exhibits filed herein by  
20 either petitioner or respondents shall be filed with a separate index of exhibits identifying the exhibits  
21 by number. The CM/ECF attachments that are filed shall be identified by the number or numbers of  
22 the exhibits in the attachment. The hard copy of any additional state court record exhibits shall be  
23 forwarded – for this case – to the staff attorneys in **Reno**.

24 **IT IS FURTHER ORDERED** that petitioner's motion for appointment of counsel (ECF No.  
25 11) is DENIED.

26 DATED: December 19, 2016.

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UNITED STATES DISTRICT JUDGE