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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Evier Paez,
Petitioner
v.
Dwight Neven, et al.,
Respondents

2:16-cv-02737-JAD-NJK

Order

[ECF Nos. 1, 2, 3]

10 Nevada state prisoner Evier Paez petitions for a writ of habeas corpus and moves to
11 proceed *in forma pauperis*,¹ for leave to file an oversized petition,² and for appointment of
12 counsel.³ Paez did not attach the appropriate documentation to his pauper application to allow
13 me to properly evaluate it, so I deny the application without prejudice to his ability to refile in
14 accordance with the local rules. I also deny his motion for leave to file an oversized petition as
15 unnecessary because there is no page limit under Local Rule LSR 3-2(b). And because Paez has
16 demonstrated that he is capable of articulating his claims, due process does not mandate that he
17 be represented by counsel under these circumstances and I decline to appoint him counsel.

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Discussion

A. *In forma pauperis* application

Paez's pauper application is incomplete. Under 28 U.S.C. § 1915(a)(2) and LSR1-2 of
the local rules, Paez must attach both a properly executed financial certificate and an inmate
account statement for the past six months. He did not attach either. So I deny the application
without prejudice to his ability to refile it with the appropriate documentation. Paez must either

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¹ ECF No. 1.

² ECF No. 3.

³ ECF No. 2.

1 pay the \$5.00 filing fee or file a properly completed pauper application by October 27, 2017.

2 **B. Oversized petition**

3 Paez asks for permission to file an oversized petition,⁴ and he cites to the Federal Rules of
4 Appellate Procedure. As this is not an appeal, the Federal Rules of Appellate Procedure do not
5 apply. Instead, LSR 3-2 of the Local Rules of Practice applies, which expressly states “there is
6 no page limit with respect to habeas corpus petitions.”⁵ I therefore deny Paez’s motion as
7 unnecessary.

8 **C. Appointment of counsel**

9 Finally, Paez also requests appointment of counsel to pursue his petition for a writ of
10 habeas corpus. There is no constitutional right to counsel for a federal habeas corpus
11 proceeding.⁶ But I have discretion to appoint counsel if the “interests of justice require
12 representation,” and I must appoint counsel if the case is so complex that denial of counsel would
13 amount to a denial of due process.⁷ I “must evaluate the likelihood of success on the merits as
14 well as the ability of the petitioner to articulate his claims *pro se* in light of the complexity of the
15 legal issues involved.”⁸ The factors to consider are not separate from the underlying claims but
16 are intrinsically enmeshed with them.⁹

17 I deny the motion for appointment of counsel. Paez has demonstrated that he can clearly
18 articulate the claims that he believes entitle him to habeas corpus relief,¹⁰ and though some of his
19 claims involve somewhat-complex legal issues, he presents copious, articulate arguments for
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21 ⁴ ECF No. 3.

22 ⁵ L.S.R. 3-2(b).

23 ⁶ *Penn. v. Finley*, 481 U.S. 551, 555 (1987).

24 ⁷ *See Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986), *cert. denied*, 481 U.S. 1023 (1987).

25 ⁸ *See Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983).

26 ⁹ *Id.*

27 ¹⁰ ECF No. 1-1.

1 each of his claims.

2 **Conclusion**

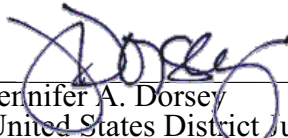
3 Accordingly, IT IS HEREBY ORDERED that Paez’s application to proceed *in forma*
4 *pauperis* [ECF No. 1] is **DENIED without prejudice**. Paez has **until October 27, 2017, to**
5 **either pay the \$5.00 filing fee or file a new and complete application to proceed *in forma***
6 ***pauperis* together with a properly executed financial certificate and an inmate account**
7 **statement for the past six months**. If Paez fails to either pay the filing fee or submit a properly
8 completed new pauper application before this court-ordered deadline, **this action will be**
9 **dismissed without further advance notice**.

10 The Clerk of Court is directed to **SEND Paez two copies of an *in forma pauperis***
11 **application form for incarcerated persons along with one copy of the instructions for the**
12 **same**.

13 IT IS FURTHER ORDERED that Paez’s motion for appointment of counsel [ECF No. 2]
14 **is DENIED without prejudice**.

15 IT IS FURTHER ORDERED that Paez’s motion for leave to file an oversized petition
16 [ECF No. 3] **is DENIED**.

17 DATED: September 26, 2017.

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20 Jennifer A. Dorsey
21 United States District Judge
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