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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

TONY ONTIA BROWN,)
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 Petitioner,)
)
 vs.)
)
 TIMOTHY FILSON, *et al.*,)
)
 Respondents.)
 /

2:17-cv-00387-GMN-CWH

ORDER

This is a habeas corpus proceeding pursuant to 28 U.S.C. § 2254. On June 18, 2017, this court entered an order denying petitioner’s motion to waive the filing fee (ECF No. 6) and second application to proceed *in forma pauperis* (ECF No. 7). ECF No. 8. Petitioner has now paid the filing fee, so the Clerk of the Court will be directed to file petitioner’s habeas petition (currently docketed at ECF No. 1-2).

The court has reviewed the habeas petition pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts and concludes that it merits service upon the respondents.

Petitioner has filed a motion for appointment of counsel (ECF No. 3), together with a motion for evidentiary hearing (ECF No. 4). “Indigent state prisoners applying for habeas corpus relief are not entitled to appointed counsel unless the circumstances of a particular case indicate that appointed

1 counsel is necessary to prevent due process violations.” *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th
2 Cir. 1986) (citing *Kreiling v. Field*, 431 F.2d 638, 640 (9th Cir.1970) (per curiam). The court may,
3 however, appoint counsel at any stage of the proceedings “if the interests of justice so require.” *See*
4 18 U.S.C. § 3006A; *see also* Rule 8(c), Rules Governing § 2254 Cases; *Chaney*, 801 F.2d at 1196. It
5 appears that this action involves relatively complex issues that petitioner, who has been sentenced to
6 life without parole, may not be able to adequately litigate without counsel. Therefore, the court finds
7 that appointment of counsel is in the interests of justice.

8 Respondents will not be required to respond to the petition at this time as the court
9 anticipates that, with counsel, petitioner will likely file an amended petition.

10 **IT IS THEREFORE ORDERED** that the Clerk of the Court shall separately file the
11 petition for writ of habeas corpus, which is currently docketed at ECF No. 1-2.

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

14 **IT IS FURTHER ORDERED** that the Clerk shall electronically serve upon respondents a
15 copy of the petition for writ of habeas corpus, and a copy of this order.

16 **IT IS FURTHER ORDERED** that respondents shall have 20 days from the date on which
17 the petition is served upon them to appear in this action. Respondents will not be required to
18 respond to the habeas petition at this time.

19 **IT IS FURTHER ORDERED** that petitioner’s motion for appointment of counsel (ECF No.
20 3) is GRANTED. The Federal Public Defender for the District of Nevada (FPD) is appointed to
21 represent petitioner. If the FPD is unable to represent the petitioner, due to a conflict of interest or
22 other reason, then alternate counsel will be appointed. In either case, counsel will represent the
23 petitioner in all federal-court proceedings relating to this matter, unless allowed to withdraw.

24 **IT IS FURTHER ORDERED** that petitioner’s motion for an evidentiary hearing (ECF No.
25 4) is DENIED as moot.

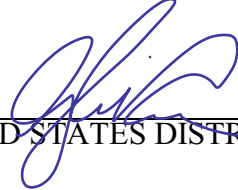
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IT IS FURTHER ORDERED that the Clerk shall electronically serve upon the FPD a copy of this order, together with a copy of the petition for writ of habeas corpus.

IT IS FURTHER ORDERED that the FPD shall have 20 days from the date of entry of this order to file a notice of appearance, or to indicate to the court its inability to represent the petitioner in this case.

IT IS FURTHER ORDERED that the court will establish a schedule for further proceedings after counsel appear for the petitioner and the respondents.

Dated this 15 day of August, 2017.



UNITED STATES DISTRICT JUDGE