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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

LEONARD R. WOODS,)
)
 Plaintiff(s),)
)
 v.)
)
 PHILLIP J. KOHN, et al.,)
)
 Defendant(s).)

Case No. 2:17-cv-01607-JCM-NJK
**ORDER REGARDING APPLICATION
TO PROCEED *IN FORMA PAUPERIS***
(Docket No. 1)

This matter is before the Court on Plaintiff’s Application to Proceed *In Forma Pauperis*. Docket No. 1. Plaintiff is a prisoner proceeding in this action *pro se*. Plaintiff has submitted the financial affidavit and inmate trust account statement required by 28 U.S.C. § 1915(a)(2). His request to proceed *in forma pauperis* would ordinarily be granted pursuant to 28 U.S.C. § 1915(a).

Plaintiff’s claims arise out of his dissatisfaction with his counsel in his on-going murder trial in state court, and the rulings by that court denying motions to end that representation. *See* Docket No. 1-1 at 2, 3. The relief Plaintiff seeks is “effective assistance of counsel, [sic] preferably through the state, and not appointed by the Public Defender’s Office.” *Id.* at 9. It is well settled that a federal district court does not have appellate jurisdiction over a state court, whether by direct appeal, mandamus, or otherwise. *See, e.g., Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923); *Bianchi v. Rylaarsdam*, 334 F.3d 895, 898 (9th Cir. 2003). Moreover, the United States Supreme Court has long made clear that absent extraordinary circumstances, federal courts must not interfere with pending state criminal prosecutions even when they raise issues of federal rights or interests. *See, e.g., Younger v. Harris*, 401 U.S. 37, 44 (1971).

1 If the court grants Plaintiff's Application to Proceed *In Forma Pauperis*, Plaintiff will be required,
2 under 28 U.S.C. § 1915(b)(2), as amended by the Prison Litigation Reform Act of 1995, to pay the full
3 \$350 filing fee, even if his complaint is dismissed. As set forth above, the Court believes Plaintiff's claims
4 will not survive the pleading stage. Given these circumstances, the Court will allow Plaintiff thirty days
5 to withdraw his Application to Proceed *In Forma Pauperis*. If Plaintiff does not, the Court will grant his
6 Application to Proceed *In Forma Pauperis*, screen Plaintiff's complaint, and order that he pay the \$350
7 filing fee in accordance with 28 U.S.C. § 1915.

8 Based upon the foregoing, **IT IS ORDERED** that:

- 9 1. Plaintiff's Application to Proceed *In Forma Pauperis* (Docket No. 1) is **HELD IN**
10 **ABEYANCE**.
- 11 2. Plaintiff shall have until **July 14, 2017** to withdraw his Application to Proceed *In Forma*
12 *Pauperis*. If he does not, the court will screen the complaint pursuant to 28 U.S.C. § 1915,
13 recommend dismissal, and order Plaintiff to pay the \$350 filing fee.

14 Dated: June 14, 2017

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17 Nancy J. Koppe
18 UNITED STATES MAGISTRATE JUDGE
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