

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 Case No.: 2:17-cv-02047-JAD-BNW

4 Sean Rodney Orth,

5 Petitioner

6 v.

7 Warden, High Desert State Prison, et al.,

8 Respondents

**Order Provisionally
Appointing Counsel**

[ECF No. 33]

9
10 Pro se petitioner Sean Rodney Orth petitions for habeas relief from his 2007 Nevada state
11 conviction on a handful of offenses that resulted in concurrent sentences of ten years to life.

12 With a motion to dismiss his petition pending,¹ Orth moves for court-appointed counsel.² I find
13 that Orth has demonstrated that counsel is appropriate, so I provisionally appoint the Federal
14 Public Defender to represent Orth in this case.

15 **Discussion**

16 There are several reasons to grant Orth's request for counsel. Orth is serving three
17 sentences of life imprisonment with eligibility for parole after a minimum of ten years.³ The
18 issues are lengthy, if not complex. Orth represented himself at trial, and the trial transcript alone
19 is seven volumes long. In the state post-conviction proceedings, Orth—then represented by
20 counsel—filed a petition that is 275 pages long. Much of the state and petitions involve claims

21
22 _____
¹ EF No. 15.

23 ² ECF No. 33.

³ Petitioner has received parole.

1 to (1) undertake representation of Orth or (2) indicate to the court the office's inability to
2 represent Orth. If the Federal Public Defender is unable to represent Orth, then the court will
3 appoint alternate counsel, subject again to establishment of financial eligibility. The court will
4 set a deadline for filing an amended petition or amended response to the motion to dismiss, or a
5 motion seeking other relief, once counsel has appeared. The court does not signify any implied
6 finding of tolling during any time period established or any extension granted. Orth always
7 remains responsible for calculating the limitation period of 28 U.S.C. § 2244(d)(1) and timely
8 presenting claims. The court makes no representation that the petition, any amendments to the
9 petition, and any claims in the petition or amendments are not subject to dismissal as untimely.⁶

10 Dated: June 29, 2019.

11 _____
12 U.S. District Judge Jennifer A. Dorsey
13 Dated: June 29, 2019
14
15
16
17
18
19
20
21
22
23

⁶ See *Sossa v. Diaz*, 729 F.3d 1225, 1235 (9th Cir. 2013).