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6 UNITED STATES DISTRICT COURT
7 DISTRICT OF NEVADA

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9 DONALD ALVA OLIVER,

Case No. 2:17-cv-03008-MMD-CWH

10 Petitioner,

ORDER

11 v.

12 BRIAN WILLIAMS, *et al.*,

13 Respondents.

14 Petitioner has submitted an application to proceed *in forma pauperis* (ECF No. 4)
15 and a petition for a writ of habeas corpus (ECF No. 1-1) pursuant to 28 U.S.C. § 2254.
16 The Court finds that petitioner is unable to pay the filing fee. The Court has also reviewed
17 the petition pursuant to Rule 4 of the Rules Governing § 2254 Cases in the United States
18 District Courts. The Court will serve the petition upon Respondents for a response.

19 Petitioner has filed a motion for appointment of counsel (ECF No. 5). Whenever the
20 Court determines that the interests of justice so require, counsel may be appointed to any
21 financially eligible person who is seeking habeas corpus relief. 18 U.S.C. §
22 3006A(a)(2)(B). “[T]he district court must evaluate the likelihood of success on the merits
23 as well as the ability of the petitioner to articulate his claims pro se in light of the complexity
24 of the legal issues involved.” *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983). There
25 is no constitutional right to counsel in federal habeas proceedings. *McCleskey v. Zant*,
26 499 U.S. 467, 495 (1991). The factors to consider are not separate from the underlying
27 claims, but are intrinsically enmeshed with them. *Weygandt*, 718 F.2d at 954. After
28 reviewing the petition, the Court finds that appointment of counsel is not warranted.

1 It is therefore ordered that the application to proceed *in forma pauperis* (ECF No.
2 4) is granted. Petitioner need not pay the filing fee of five dollars (\$5.00).

3 It is further ordered that the clerk of the Court file the petition for a writ of habeas
4 corpus pursuant to 28 U.S.C. § 2254.

5 It is further ordered that the clerk add Adam Paul Laxalt, Attorney General for the
6 State of Nevada, as counsel for Respondents.

7 It is further ordered that the clerk electronically serve upon Respondents a copy of
8 the petition and this Order. In addition, the clerk shall return to Petitioner a copy of the
9 petition.

10 It is further ordered that Respondents will have forty-five (45) days from the date
11 on which the petition was served to answer or otherwise respond to the petition.
12 Respondents shall raise all potential affirmative defenses in the initial responsive pleading,
13 including untimeliness, lack of exhaustion, and procedural default. Successive motions to
14 dismiss will not be entertained. If Respondents file and serve an answer, then they must
15 comply with Rule 5 of the Rules Governing § 2254 Cases in the United States District
16 Courts, and then Petitioner will have forty-five (45) days from the date on which the answer
17 is served to file a reply. If Respondents file a motion, then Petitioner will have fourteen
18 (14) days to file a response to the motion, and Respondents will have seven (7) days from
19 the date of filing of the response to file a reply.

20 It is further ordered that, notwithstanding Local Rule LR IC 2-2(g) paper copies of
21 any electronically filed exhibits need not be provided to chambers or to the staff attorney,
22 unless later directed by the Court.

23 It is further ordered that Petitioner's motion for appointment of counsel (ECF No. 5)
24 is denied.

25 DATED THIS 25th day of May 2018.

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MIRANDA M. DU
UNITED STATES DISTRICT JUDGE