

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3
4 Rodney Marshall,
5 Petitioner

6 v.

7 Brian Williams, et al.,
8 Respondents

2:18-cv-00075-JAD-CWH

**Screening Order; Granting IFP Status;
Appointing Counsel**

[ECF Nos. 1, 2]

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10 Pro se petitioner Rodney Marshall is 57 years old and is currently housed at the High
11 Desert State Prison where he serves many sentences totaling more than 60 years to life for two
12 counts of first-degree murder, eight greater-habitual-criminal crimes, and attempted possession of
13 a stolen vehicle.¹ He now petitions for a writ of habeas corpus, applies to proceed *in forma*
14 *pauperis*, and requests appointed counsel.²

15 I find, based on Marshall's attached financial certificate, that he is unable to pay the filing
16 fee, so I grant his motion to proceed *in forma pauperis*. I also find that it is in the interests of
17 justice to appoint counsel for Mr. Marshall in light of his age, the lengthy sentence, and the
18 complexity of the issues regarding his petition's timeliness.

19 Accordingly, IT IS HEREBY ORDERED that Marshall's application to proceed *in forma*
20 *pauperis* [ECF No. 1] is **GRANTED**; Marshall **DOES NOT have to pay the filing fee**.

21 The **Clerk of Court** is directed to **DETACH and FILE Marshall's petition [ECF No.**
22 **1-1]**.

23 IT IS FURTHER ORDERED that Marshall's motion for appointment of counsel [ECF
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25 ¹ Marshall claims that he is serving four 10-years-to-life sentences for robbery and battery with
26 the intent to commit robbery. But the Nevada Department of Corrections' Inmate Lookup feature
27 reveals more. NEVADA DEP'T OF CORRECTIONS (Jan. 19, 2018) <http://doc.nv.gov/Inmates/Home/>
(inmate search by name Rodney Marshall or by offender ID 81032).

28 ² ECF Nos. 1-1, 1, 2.

1 **No. 2] is GRANTED.**

2 IT IS FURTHER ORDERED that the Federal Public Defender is provisionally appointed
3 as counsel and has **until February 21, 2018, to undertake direct representation of Marshall**
4 **or indicate to the Court its inability to represent him in these proceedings.** If the Federal
5 Public Defender is unable to represent Marshall, the Court then will appoint alternate counsel.
6 The counsel appointed will represent Marshall in all federal proceedings related to this matter,
7 including any appeals or *certiorari* proceedings, unless allowed to withdraw. A deadline for the
8 filing of an amended petition or seeking other relief will be set after counsel has entered an
9 appearance. The Court anticipates setting the deadline for approximately 120 days from entry of
10 the formal order of appointment. Any deadline established or any extension thereof will not
11 signify any implied finding of a basis for tolling during the time period established. Marshall at
12 all times remains responsible for calculating the running of the federal limitation period and
13 timely presenting claims. That is, by setting a deadline to amend the petition or by granting any
14 extension thereof, the Court makes no finding or representation that the petition, any
15 amendments thereto, and any claims contained therein are not subject to dismissal as untimely.³
16 In the event that any time potentially remains in the federal limitation period, Marshall may move
17 to invoke a “two-step” amendment procedure if the limitation period putatively will expire prior
18 to the time that counsel can complete a full investigation.⁴

19 The **Clerk of Court** is directed to **ADD Attorney General Adam P. Laxalt** as counsel
20 for respondents so that they can be electronically served with any papers filed through counsel.
21 The **Clerk of Court** is also directed to **SERVE electronically this order upon respondents by**
22 **directing a notice of electronic filing to Laxalt.**

23 IT IS FURTHER ORDERED that respondents’ counsel must enter a **notice of**
24 **appearance by February 12, 2018,** but no further response will be required from respondents
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26 ³ See *Sossa v. Diaz*, 729 F.3d 1225, 1235 (9th Cir. 2013).

27 ⁴ See, e.g., *Harsh v. Gentry*, case no. 2:17-cv-02069-MND-NJK, ECF No. 15 (D. Nev. Nov. 16,
28 2017).

1 until further order of the Court.

2 The **Clerk of Court** is directed to **SEND a copy of this order to: (1) Marshall; (2) the**
3 **Nevada Attorney General; (3) the Federal Public Defender; and (4) the CJA Coordinator**
4 **for this division.** The **Clerk of Court** is also directed to provide copies of all prior filings to
5 both the Attorney General and the Federal Public Defender in a manner consistent with the
6 Clerk's current practice, such as regeneration of notices of electronic filing.

7 DATED: January 22, 2018.

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U.S. District Judge Jennifer A. Dorsey

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