

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

MANUEL STEVEN GUARDADO,

Petitioner,

v.

NEVADA ATTORNEY GENERAL, et al.,

Respondents.

Case No. 3:10-cv-00103-MMD-WGC

ORDER

This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254, by a Nevada state prisoner.

This action was previously closed following the Court's granting of a stay and abeyance while petitioner returned to state court to exhaust his state-court remedies with respect to certain of his grounds for relief. (Dkt. no. 35.) On November 21, 2013, the Court granted petitioner's motion to reopen the case, as petitioner's further state-court proceedings concluded. (Dkt. no. 38.) In the order reopening the case, the Court also denied petitioner's motion for the appointment of counsel. (*Id.*)

Petitioner has filed a motion for reconsideration of the Court's denial of his motion for the appointment of counsel and a renewed motion for the appointment of counsel. (Dkt. nos. 39 & 40.) There is no constitutional right to appointed counsel for a federal habeas corpus proceeding. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir. 1993). The decision to appoint counsel is generally discretionary. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986), *cert. denied*, 481 U.S. 1023 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), *cert.*

1 *denied*, 469 U.S. 838 (1984). This Court denied petitioner's prior motions for the
2 appointment of counsel. (Dkt. nos. 8 & 38.) Petitioner has presented nothing that would
3 persuade this Court to alter its prior decision denying the appointment of counsel.
4 Petitioner's motion for reconsideration and renewed motion for the appointment of
5 counsel are denied.

6 Respondents have filed a motion for an order to show cause why this action
7 should not be dismissed. (Dkt. no. 41.) Respondents argue that petitioner failed to file
8 an amended petition within the thirty-day period allowed in the Court's order of
9 November 21, 2013. Petitioner filed a motion for an extension of time in which to file a
10 response to respondents' motion. (Dkt. no. 42.) Petitioner then filed a response to the
11 motion. (Dkt. no. 43.) As such, the motion for an extension of time is granted, *nunc pro*
12 *tunc*. In his response to the motion to show cause, petitioner explains that he had not
13 yet filed an amended petition because he had been waiting on the Court to rule on his
14 renewed motion for appointment of counsel. On March 12, 2014, petitioner filed an
15 amended petition. (Dkt. no. 47.) Because petitioner has filed his amended petition,
16 respondents' motion for an order to show cause is denied.

17 Prior to filing the amended petition, on March 6, 2014, petitioner filed a motion for
18 an extension of time (dkt. no. 46) and a motion for the appointment of counsel (dkt. no.
19 45). To the extent petitioner sought an extension of time in which to file the amended
20 petition, the motion is granted, *nunc pro tunc*. Regarding the motion for the appointment
21 of counsel, the motion is denied for the reasons stated above.

22 It is therefore ordered that petitioner's motion for reconsideration of the Court's
23 denial of his motion for the appointment of counsel and a renewed motion for the
24 appointment of counsel (dkt. nos. 39 & 40) are denied.

25 It is further ordered that petitioner's motion for an extension of time in which to
26 file a response to the motion for an order to show cause (dkt. no. 42) is granted *nunc*
27 *pro tunc*.

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

It is further ordered that respondents' motion for an order to show cause (dkt no. 41) is denied.

It is further ordered that petitioner's motion for an extension of time to file the amended petition (dkt. no. 46) is granted *nunc pro tunc*.

It is further ordered that petitioner's motion for the appointment of counsel (dkt. no. 45) is denied.

DATED THIS 10th day of September 2014.


MIRANDA M. DU
UNITED STATES DISTRICT JUDGE