

1
2
3
4
5
6
7
8
9
10
11
12
13
14

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

PETER M. BERGNA,

Petitioner,

vs.

JAMES BENEDETTI, *et al.*

Respondents.

3:10-cv-00389-RCJ-WGC

ORDER

15 Following upon the Court's prior order (#53) vacating the appointment of the Federal
16 Public Defender,

17 IT IS ORDERED that Leah Wigren, Esq., is appointed as counsel for petitioner
18 pursuant to 18 U.S.C. § 3006A(a)(2)(B).

19 IT FURTHER IS ORDERED that, given the length of the present counseled amended
20 petition and the time for review and possible investigation likely required for replacement
21 counsel, petitioner shall have until up to and including **one hundred eighty (180) days** from
22 entry of this order within which to file an amended petition and/or seek other appropriate relief.
23 Neither the foregoing deadline nor any extension thereof signifies or will signify, in and of
24 itself, any implied finding of a basis for tolling during the time period established. Petitioner
25 at all times remains responsible for calculating the running of the limitation period and timely
26 asserting claims. The Court will screen any amended petition filed prior to further action.

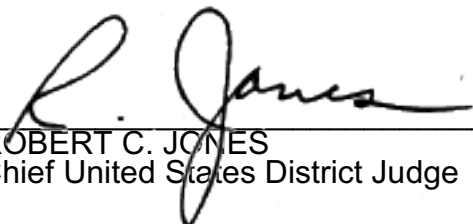
27 IT FURTHER IS ORDERED that, also given the length of the present counseled
28 amended petition, petitioner may incorporate, in whole or in part, the current amended petition

1 (#13) and exhibits by reference, Local Rule LR 15-1(a) notwithstanding. That is, for this
2 particular case, petitioner need not file a stand-alone pleading re-alleging claims and
3 allegations from the current amended petition without incorporation. Petitioner instead may
4 file an amended pleading incorporating the current amended petition in whole or in part. If
5 petitioner adds additional grounds, petitioner shall number the first new ground as Ground 11,
6 even if petitioner elects to omit any of the Grounds 1 through 10 presented in the prior
7 amended petition.¹ If petitioner instead elects, following a conflict-free review, to stand on the
8 current amended petition as is in full, then petitioner simply can file a notice to that effect, so
9 long as the notice expressly specifies whether Ground 9 remains abandoned. See #44.

10 IT FURTHER IS ORDERED that any additional state court record exhibits filed herein
11 by either petitioner or respondents shall be filed with a separate index of exhibits identifying
12 the exhibits by number or letter, with petitioner starting at 300 (see #36). The CM/ECF
13 attachments that are filed further shall be identified by the number or numbers of the exhibits
14 in the attachment (*i.e.*, in the same manner as in ## 14-26). **The hard copy of any exhibits**
15 **filed by either counsel shall be delivered to the Clerk's office in Las Vegas.**

16 The Clerk shall: (a) regenerate notices of electronic filing to replacement counsel for
17 all prior filings; and (b) SEND a copy of this order to Mr. Bergna and to the CJA Coordinator.

18 DATED: This 16th day of September, 2013.

19
20
21 
22 ROBERT C. JONES
23 Chief United States District Judge

24 ¹For example, if petitioner adopts the current Grounds 1 through 10 in full and adds
25 a new Ground 11, the amended pleading filed would state that Grounds 1 through 10 from
26 the current amended petition are incorporated in full and realleged *in extenso* and then
27 would allege Ground 11 next in sequence. If petitioner seeks to assert, *e.g.*, new claims of
28 ineffective assistance of counsel and/or expanded claims of cumulative error covering
both prior and new claims, petitioner should do so in such added numbered grounds, with
subparts as appropriate. The Court is seeking to keep the same numbering of grounds
without regard to whether certain grounds subsequently have been omitted or resolved.