

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**

ELISANDRO MENDOZA,

Petitioner,

vs.

LEGRAND, *et al.*,

Respondents.

3:10-cv-00545-ECR-RAM

ORDER

This habeas matter under 28 U.S.C. § 2254 comes before the Court for initial review of the petition and on the accompanying motion for appointment of counsel. The filing fee has been paid.

The Court will appoint counsel out of an abundance of caution, in light of the sentence of life with the possibility of parole after ten years on petitioner’s conviction for sexual assault; the potential issues involved as to the federal limitation period and procedural default; and petitioner’s allegation, through an inmate law clerk, that he is unable to read and write English. Nothing in this order constitutes an express or implied holding as to petitioner’s actual ability to communicate effectively in English or as to any other issue other than the grant of counsel.

IT THEREFORE IS ORDERED that the Clerk of Court shall file the petition.

IT FURTHER IS ORDERED that the Clerk shall file the accompanying motion for appointment of counsel, that said motion is GRANTED, and that the Clerk shall reflect on the docket per the Clerk’s current practice that the motion is granted by this order. The counsel appointed will represent petitioner in all proceedings related to this matter, including any appeals or *certiorari* proceedings, unless allowed to withdraw.

1 IT FURTHER IS ORDERED that the Federal Public Defender shall be provisionally
2 appointed as counsel and shall have thirty (30) days to undertake direct representation of
3 petitioner or to indicate an inability to do so. If the Federal Public Defender is unable to
4 represent petitioner, the Court then shall appoint alternate counsel. A deadline for the filing
5 of an amended petition will be set after counsel has entered an appearance. The Court
6 anticipates setting the deadline for one hundred twenty (120) days based upon the current
7 record, which does not automatically establish any period of equitable or other tolling. It
8 would appear that any time-bar and/or procedural default issues would be more efficiently
9 addressed following a counseled amended petition.

10 IT FURTHER IS ORDERED that the Clerk shall add Attorney General Catherine Cortez
11 Masto as counsel for respondents and shall informally electronically serve both the Federal
12 Public Defender and the Attorney General as further specified below.

13 IT FURTHER IS ORDERED that respondents' counsel shall enter a notice of
14 appearance herein within twenty (20) days of entry of this order, but no further response shall
15 be required from respondents until further order of this Court.

16 The Clerk of Court accordingly shall send a copy of this order (with attachments of the
17 petition and motion for counsel) to the *pro se* petitioner, the Attorney General, the Federal
18 Public Defender, and the CJA Coordinator for this Division.

19 DATED: May 23, 2011.

20
21 

22 _____
23 EDWARD C. REED
24 United States District Judge
25
26
27
28