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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DELBERT GREENE,)	
)	
Petitioner,)	3:11-cv-00828-RCJ-VPC
)	
vs.)	
)	ORDER
RENA BAKER, et al.,)	
)	
Respondents.)	
	/	

The petitioner has presented the Court with a motion for appointment of counsel, a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 (received November 17, 2011) and an application to proceed *in forma pauperis* (ECF No. 1).

The petitioner’s application to proceed *in forma pauperis*, including the financial certificate, establishes that the petitioner qualifies for *in forma pauperis* status. He shall be granted leave to proceed *in forma pauperis*, and shall not be required to pay the filing fee for his habeas corpus petition. The motion for counsel will be ordered filed and docketed. The motion for appointment of counsel shall denied.

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. denied*, 469 U.S. 838 (1984). However, counsel must be appointed if the complexities

1 of the case are such that denial of counsel would amount to a denial of due process, and where the
2 petitioner is a person of such limited education as to be incapable of fairly presenting his claims. See
3 *Chaney*, 801 F.2d at 1196; *see also Hawkins v. Bennett*, 423 F.2d 948 (8th Cir. 1970). The claims in
4 this case are not especially complex. Also, the Court notes from the state , and from the other documents
5 that petitioner has submitted to the Court, that petitioner is able to present matters to the Court in an
6 organized and understandable manner, if he desires. Petitioner's motion shall be denied.

7 A petition for federal habeas corpus should include all claims for relief of which
8 petitioner is aware. If petitioner fails to include such a claim in his petition, he may be forever barred
9 from seeking federal habeas relief upon that claim. *See* 28 U.S.C. §2254(b) (successive petitions). If
10 petitioner is aware of any claim not included in his petition, he should notify the Court of that as soon
11 as possible, perhaps by means of a motion to amend his petition to add the claim.

12 **IT IS THEREFORE ORDERED** that petitioner's application to proceed *in forma*
13 *pauperis* (ECF No. 1) is **GRANTED**. Petitioner shall not be required to pay a filing fee to file his
14 habeas corpus petition.

15 **IT IS FURTHER ORDERED** that the motion for appointment of counsel shall be **filed**
16 **and docketed** by the Clerk and is **denied**.

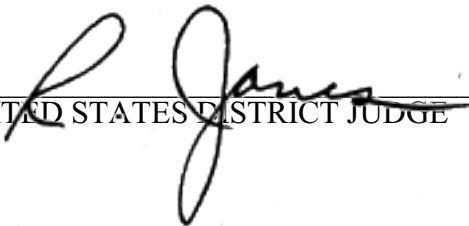
17 **IT IS FURTHER ORDERED** that the Clerk shall **FILE** and **ELECTRONICALLY**
18 **SERVE** the petition (ECF No. 1-1) upon the respondents.

19 **IT IS FURTHER ORDERED** that respondents shall have **forty-five (45)** days from
20 entry of this order within which to answer, or otherwise respond to, the petition. In their answer or other
21 response, respondents shall address any claims presented by petitioner in his petition as well as any
22 claims presented by petitioner in any Statement of Additional Claims. Respondents shall raise all
23 potential affirmative defenses in the initial responsive pleading, including lack of exhaustion and
24 procedural default. **Successive motions to dismiss will not be entertained**. If an answer is filed,
25 respondents shall comply with the requirements of Rule 5 of the Rules Governing Proceedings in the
26

1 United States District Courts under 28 U.S.C. §2254. If an answer is filed, petitioner shall have **forty-**
2 **five (45) days** from the date of service of the answer to file a reply.

3 **IT IS FURTHER ORDERED** that, henceforth, petitioner shall serve upon the Attorney
4 General of the State of Nevada a copy of every pleading, motion, or other document he submits for
5 consideration by the Court. Petitioner shall include with the original paper submitted for filing a
6 certificate stating the date that a true and correct copy of the document was mailed to the Attorney
7 General. The Court may disregard any paper that does not include a certificate of service. After
8 respondents appear in this action, petitioner shall make such service upon the particular Deputy Attorney
9 General assigned to the case.

10 Dated this 7th day of December, 2011.

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13 UNITED STATES DISTRICT JUDGE
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