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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

WILLIAM RONALD CLARK,)

Petitioner,)

vs.)

RENEE BAKER, *et al.*,)

Respondents.)

3:12-cv-0579-RCJ-VPC

ORDER

William Clark, a Nevada prisoner, has filed a petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254 (ECF No. 1-1 through 1-11) and a motion for leave to file longer than normal petition (ECF No. 3).

Petitioner also filed a motion for leave to proceed in *forma pauperis* (ECF No. 1), and a motion for appointment of counsel (ECF No.5). The motion for leave to proceed in *forma pauperis* shall be denied as moot where petitioner has already paid the full filing fee (ECF No. 2).

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); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir. 1984). However, counsel must be appointed if the complexities of the case are such that denial of counsel would amount to a denial of due process, and where the petitioner is a person of such limited education as to be incapable of fairly presenting his claims. See *Chaney*, 801 F.2d at 1196; *see also Hawkins v.*

1 *Bennett*, 423 F.2d 948 (8th Cir. 1970).

2 The petition on file in this action is sufficiently clear in presenting the issues that
3 petitioner wishes to bring. Further, he has had access to his state court records as demonstrated by
4 the numerous attachments to the petition. It does not appear that counsel is justified in this instance.
5 The motion shall be denied.

6 The motion for leave to file a longer than normal petition shall be granted in part.
7 Petitioner has submitted a memorandum of points and authorities along with several hundred pages
8 of state court records in addition to his petition. These filings are improper at this time.. Therefore,
9 the Clerk shall be directed to not file and to return to petitioner his memorandum of points and
10 authorities in support of his petition, along with the attachments or exhibits thereto. Petitioner is
11 advised that the arguments presented in the memorandum may be of used in responding to a motion
12 to dismiss or answer and it should be put to use at that time.

13 **IT IS THEREFORE ORDERED** that the application to proceed in *forma pauperis*
14 (ECF No. 5) is **DENIED AS MOOT**.

15 **IT IS FURTHER ORDERED** that the Motion to File a Longer Than Normal
16 Petition (ECF No. 3) IS **GRANTED**. The Clerk shall **electronically SERVE** a copy of the petition
17 for writ of habeas corpus (CM/ECF pages 1-26 of ECF No. 1) and other motions (and a copy of this
18 order) upon respondents.

19 **IT IS FURTHER ORDERED** that the Clerk shall strike from the record and return
20 the original copies of the remainder of the proposed petition and supporting documents to petitioner,
21 including the Memorandum in Support (starting at CM/ECF page 27).

22 **IT IS FURTHER ORDERED** that the Motion for Appointment of Counsel (ECF
23 No. 4) is **DENIED**.

24 **IT IS FURTHER ORDERED** that the respondents shall file and serve a notice of
25 appearance of counsel within ten days of entry of this Order.

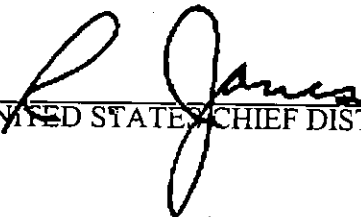
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1 **IT IS FURTHER ORDERED** that respondents shall have forty-five days from entry
2 of this Order to file and serve an answer or other response to the habeas corpus petition.

3 **IT IS FURTHER ORDERED** that, if respondents file a motion to dismiss in
4 response to the habeas petition, petitioner shall have **30 days** to respond to such motion, and
5 respondents shall, thereafter, have **20 days** to reply. If respondents file an answer in response to the
6 Second Amended Petition, petitioner shall have **30 days** to file a reply to the answer.

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

14 Dated this 15th day of January, 2013.

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19 UNITED STATES CHIEF DISTRICT JUDGE
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