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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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MIGUEL CASTILLAS-GUITIERREZ,

Case No. 3:13-cv-00448-MMD-WGC

Petitioner,

ORDER

v.

LEGRAND, et al.,

Respondents.

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. The petition and attachments were received by the Court on August 21, 2013. (Dkt. no. 1.)

Petitioner has submitted an application to proceed *in forma pauperis*. (Dkt. no. 1.) The application to proceed *in forma pauperis* establishes that the petitioner qualifies for *in forma pauperis* status. Petitioner shall be granted leave to proceed *in forma pauperis*, and shall not be required to pay the filing fee for this habeas corpus petition.

Petitioner has submitted a motion for the appointment of counsel. (Dkt. no. 1-2.) A district court may appoint counsel to represent a habeas petitioner whenever “the court determines that the interests of justice so require” 18 U.S.C. § 3006A(a)(2)(B). 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. Bennett*, 423 F.2d 948 (8th Cir. 1970).

1 The petition submitted in this action includes many claims, the contents of which
2 suggest that it may be a relatively complex action. Significantly, the petition is
3 accompanied by an affidavit of the inmate who assisted petitioner by writing the petition.
4 The motion for the appointment of counsel and accompanying affidavit indicate that
5 petitioner does not speak, write, or read English. Without the assistance of counsel,
6 petitioner cannot adequately litigate this action. Therefore, the Court grants petitioner's
7 motion for the appointment of counsel.

8 The Federal Public Defender for the District of Nevada (FPD) shall be appointed
9 to represent petitioner. If the FPD is unable to represent petitioner, due to a conflict of
10 interest or other reason, then alternate counsel for petitioner shall be located, and the
11 Court will enter a separate order appointing such alternate counsel. In either case,
12 counsel will represent petitioner in all future federal proceedings relating to this matter
13 (including subsequent actions) and appeals therefrom, unless allowed to withdraw.

14 It is therefore ordered that petitioner's motion to proceed *in forma pauperis* (dkt.
15 no. 1) is granted. Petitioner shall not be required to pay a filing fee to file the habeas
16 corpus petition. The habeas corpus petition shall be filed by the Clerk of Court.

17 It is further ordered that petitioner's motion for the appointment of counsel (dkt.
18 no. 1-2) is granted. The Federal Public Defender is appointed to represent petitioner.

19 It is further ordered that the Clerk of Court shall electronically serve the Federal
20 Public Defender for the District of Nevada (FPD) a copy of this order, together with a
21 copy of the petition for writ of habeas corpus and its attachments (dkt. no. 1-1). The
22 FPD shall have thirty (30) days from the date of entry of this order to undertake direct
23 representation of petitioner or to indicate to the Court its inability to represent petitioner
24 in these proceedings.

25 It is further ordered that the Clerk of Court shall send a copy of this order to the
26 CJA Coordinator.


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It is further ordered that, after counsel has appeared for petitioner in this case, the Court will issue a scheduling order, which will, among other things, set a deadline for the filing of a first amended petition.

DATED THIS 27th day of September 2013.



MIRANDA M. DU
UNITED STATES DISTRICT JUDGE