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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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ROBERT ROMANO,

Petitioner,

v.

LeGRANDE, *et al.*,

Respondents.

Case No. 3:14-cv-00187-MMD-WGC

ORDER

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. On October 18, 2016, the Court granted in part and denied in part respondents' motion to dismiss the amended petition. (ECF No. 32.) The Court gave petitioner options for dealing with his unexhausted claims and set deadlines for the filing of an answer and a reply. (*Id.*) On November 9, 2016, petitioner filed a declaration abandoning the unexhausted claims in the amended petition. (ECF No. 33.) On January 26, 2017, respondents filed an answer to the remaining grounds of the amended petition. (ECF No. 38.) Petitioner then filed a motion seeking the appointment of counsel and a motion for an extension of time in which to file a reply to the answer. (ECF Nos. 41, 42.)

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.

1 *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986), *cert. denied*, 481 U.S. 1023 (1987);
2 *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), *cert. denied*, 469 U.S. 838 (1984).
3 Petitioner's present motion for the appointment of counsel is his third attempt to persuade
4 the Court to appoint counsel in this case. Petitioner's first motion seeking counsel was
5 denied by order filed October 20, 2014. (ECF Nos. 5, 8.) In the first order denying the
6 appointment of counsel, this Court found that the petitioner was sufficiently clear in
7 presenting his issues and that the issues of this case were not so complex as to require
8 counsel. (ECF No. 8.) Petitioner filed a motion for reconsideration of the order denying
9 counsel. (ECF No. 9.) By order filed November 3, 2014, this Court denied petitioner's
10 motion for reconsideration, noting that nothing in his motion caused the Court to alter its
11 decision to deny the appointment of counsel. (ECF No. 10.) After respondents filed their
12 answer to the remaining claims of the amended petition, petitioner again seeks the
13 appointment of counsel. (ECF No. 41.) The Court takes note of the fact that, in this case,
14 petitioner has filed two petitions, numerous motions, an opposition to respondents' motion
15 to dismiss, and an abandonment of claims. The amended petition on file in this action is
16 sufficiently clear in presenting the issues that petitioner wishes to bring. The issues in this
17 case are no more complex now than they were previously. Petitioner's motion for the
18 appointment of counsel is denied.

19 On February 16, 2017, petitioner filed a motion for an extension of time in which to
20 file his reply to the answer. (ECF No. 42.) Petitioner's reply was due on March 13, 2017.
21 Petitioner seeks an extension of 225 days to file his reply to the answer. Respondents
22 partially oppose the motion, arguing that petitioner's request is excessive. (ECF No. 43.)
23 Petitioner argues that he needs additional time to file the reply because he cannot
24 physically enter the law library and must rely on a paging system to obtain legal research
25 materials. The Court will grant petitioner a reasonable extension of time to file his reply.
26 Given the time that has already elapsed from the date of petitioner's motion to the present
27 date, petitioner's request for an extension to file the reply is granted in part, to the extent
28 that the Court grants petitioner forty-five (45) additional days to file the reply.

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It is therefore ordered that petitioner's motion for the appointment of counsel (ECF No. 41) is denied.

It is further ordered that petitioner's motion for an extension of time to file a reply (ECF No. 42) is granted in part. Petitioner's reply must be filed within forty-five (45) days from the date of entry of this order.

DATED THIS 20th day of July 2017.



MIRANDA M. DU
UNITED STATES DISTRICT JUDGE