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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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RICKIE L. HILL,

Petitioner,

Case No. 3:14-cv-00680-RCJ-WGC

ORDER

v.

RENEE BAKER, et al.,

Respondents.

This action is a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On February 11, 2015, this court granted a stay and administratively closed petitioner Rickie L. Hill's federal habeas corpus action while he litigated his state petition (ECF No. 4).

Hill's further state-court proceedings have concluded, and he has now returned to this court seeking to reopen this case (ECF No. 7). Good cause appearing, this action is reopened. The petition shall be served on respondents.

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

Petitioner has also filed a motion for appointment of counsel and a supplement to the motion (ECF Nos. 8 and 9). There is no constitutional right to appointed counsel for

1 a federal habeas corpus proceeding. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987);  
2 *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir.1993). The decision to appoint counsel is  
3 generally discretionary. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir.1986), cert.  
4 denied, 481 U.S. 1023 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), cert.  
5 denied, 469 U.S. 838 (1984). However, counsel must be appointed if the complexities  
6 of the case are such that denial of counsel would amount to a denial of due process,  
7 and where the petitioner is a person of such limited education as to be incapable of  
8 fairly presenting his claims. *See Chaney*, 801 F.2d at 1196; *see also Hawkins v.*  
9 *Bennett*, 423 F.2d 948 (8th Cir.1970). Here, the court notes that Hill is serving four  
10 consecutive terms of ten years to life. However, his petition is clear in presenting the  
11 issues that he wishes to raise, and the legal issues are not particularly complex.  
12 Therefore, counsel is not justified at this time. Hill's motion is denied.

13 **IT IS THEREFORE ORDERED** that petitioner's motion to reopen this action (ECF  
14 No. 7) is **GRANTED**.

15 **IT IS FURTHER ORDERED** that, as the stay is lifted by this order, the Clerk shall  
16 REOPEN THE FILE in this action.

17 **IT IS FURTHER ORDERED** that the Clerk **shall file and ELECTRONICALLY**  
18 **SERVE** the petition (ECF No. 5) on the respondents.

19 **IT IS FURTHER ORDERED** that the Clerk shall add Adam Paul Laxalt, Nevada  
20 Attorney General, as counsel for respondents.

21 **IT IS FURTHER ORDERED** that petitioner's motion for appointment of counsel  
22 and supplemental motion for appointment of counsel (ECF Nos. 8 and 9) are both  
23 **DENIED**.

24 **IT IS FURTHER ORDERED** that respondents shall file a response to the petition,  
25 including potentially by motion to dismiss, within **ninety (90) days** of service of the  
26 petition, with any requests for relief by petitioner by motion otherwise being subject to  
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1 the normal briefing schedule under the local rules. Any response filed shall comply with  
2 the remaining provisions below, which are entered pursuant to Habeas Rule 5.

3 **IT IS FURTHER ORDERED** that any procedural defenses raised by respondents  
4 in this case shall be raised together in a single consolidated motion to dismiss. In other  
5 words, the court does not wish to address any procedural defenses raised herein either  
6 *in seriatum* fashion in multiple successive motions to dismiss or embedded in the  
7 answer. Procedural defenses omitted from such motion to dismiss will be subject to  
8 potential waiver. Respondents shall not file a response in this case that consolidates  
9 their procedural defenses, if any, with their response on the merits, except pursuant to  
10 28 U.S.C. § 2254(b)(2) as to any unexhausted claims clearly lacking merit. If  
11 respondents do seek dismissal of unexhausted claims under § 2254(b)(2): (a) they shall  
12 do so within the single motion to dismiss not in the answer; and (b) they shall  
13 specifically direct their argument to the standard for dismissal under § 2254(b)(2) set  
14 forth in *Cassett v. Stewart*, 406 F.3d 614, 623-24 (9th Cir. 2005). In short, no  
15 procedural defenses, including exhaustion, shall be included with the merits in an  
16 answer. All procedural defenses, including exhaustion, instead must be raised by  
17 motion to dismiss.

18 **IT IS FURTHER ORDERED** that, in any answer filed on the merits, respondents  
19 shall specifically cite to and address the applicable state court written decision and state  
20 court record materials, if any, regarding each claim within the response as to that claim.

21 **IT IS FURTHER ORDERED** that petitioner shall have **forty-five (45) days** from  
22 service of the answer, motion to dismiss, or other response to file a reply or opposition,  
23 with any other requests for relief by respondents by motion otherwise being subject to  
24 the normal briefing schedule under the local rules.

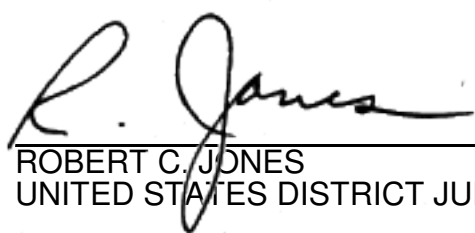
25 **IT IS FURTHER ORDERED** that any additional state court record exhibits filed  
26 herein by either petitioner or respondents shall be filed with a separate index of exhibits  
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identifying the exhibits by number. The CM/ECF attachments that are filed further shall be identified by the number of the exhibit in the attachment.

**IT IS FURTHER ORDERED** that the parties SHALL SEND courtesy copies of all exhibits in this case to the Clerk of Court, 400 S. Virginia St., Reno, NV, 89501, directed to the attention of "Staff Attorney" on the outside of the mailing address label. Additionally, in the future, all parties shall provide courtesy copies of any additional exhibits submitted to the court in this case, in the manner described above.

DATED: 12 April 2017.

  
ROBERT C. JONES  
UNITED STATES DISTRICT JUDGE