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UNITED STATES DISTRICT COURT

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DISTRICT OF NEVADA

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8 MICHAEL DWAYNE BYARS,

9 Petitioner,

3:15-cv-00388-RCJ-VPC

10 vs.

ORDER11 BRYAN WILLIAMS, SR., *et al.*,

12 Respondents.

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15 This action is a petition for writ of habeas corpus by Nevada prisoner Michael Dwayne
16 Byars. Byars filed his petition on July 27, 2015; on September 17, 2015, he paid the filing fee
17 (ECF No. 5).

18 The Court has reviewed Byars' petition, pursuant to Rule 4 of the Rules Governing Section
19 2254 Cases in the United States District Courts, and determines that it merits service upon
20 respondents and a response by respondents.

21 Byars has filed a motion for appointment of counsel (ECF No. 4). "Indigent state prisoners
22 applying for habeas corpus relief are not entitled to appointed counsel unless the circumstances of a
23 particular case indicate that appointed counsel is necessary to prevent due process violations."
24 *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir.1986) (citing *Kreiling v. Field*, 431 F.2d 638, 640
25 (9th Cir.1970) (per curiam). The court may, however, appoint counsel at any stage of the
26 proceedings "if the interests of justice so require." *See* 18 U.S.C. § 3006A; see also, Rule 8(c),

1 Rules Governing Section 2254 Cases; *Chaney*, 801 F.2d at 1196. The record in this case reflects that
2 appointment of counsel is not warranted.

3 **IT IS THEREFORE ORDERED** that petitioner's motion for appointment of counsel (ECF
4 No. 4) is **DENIED**.

5 **IT IS FURTHER ORDERED** that the Clerk of the Court shall separately file the petition
6 for writ of habeas corpus (now attached to the application to proceed *in forma pauperis*, at ECF
7 No. 1).

8 **IT IS FURTHER ORDERED** that the Clerk of the Court shall add Adam Paul Laxalt,
9 Attorney General of the State of Nevada, as counsel for respondents.

10 **IT IS FURTHER ORDERED** that the Clerk of the Court shall electronically serve upon
11 respondents a copy of the petition for writ of habeas corpus and a copy of this order.

12 **IT IS FURTHER ORDERED** that respondents shall have **60 days** from the date of entry of
13 this order to appear in this action, and to answer or otherwise respond to the petition.

14 **IT IS FURTHER ORDERED** that if respondents file an answer, petitioner shall have 60
15 days from the date on which the answer is served on him to file and serve a reply. If respondents file
16 a motion to dismiss, petitioner shall have 60 days from the date on which the motion is served on
17 him to file and serve a response to the motion to dismiss, and respondents shall, thereafter, have 30
18 days to file a reply in support of the motion.

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20 Dated this 25th day of September, 2015.

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UNITED STATES DISTRICT JUDGE