

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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VINCENT CORDOVA, SR., v. TIMOTHY FILSON, <i>et al.</i> ,	Petitioner, Respondents.	Case No. 3:17-cv-00183-MMD-VPC ORDER
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14 This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28
15 U.S.C. § 2254 by a Nevada state prisoner.

16 Petitioner has filed a motion to proceed *in forma pauperis*. (ECF No. 1). Based on
17 the information regarding petitioner's financial status, the Court finds that the motion to
18 proceed *in forma pauperis* should be granted. The Court has reviewed the petition and
19 determined that it will now be filed and served on respondents.

20 Along with the *in forma pauperis* motion and petition, petitioner submitted a
21 combined motion for the appointment of counsel and request for an evidentiary hearing.
22 (ECF No. 1-2). Pursuant to 18 U.S.C. § 3006A(2)(B), the district court has discretion to
23 appoint counsel when it determines that the “interests of justice” require representation in
24 a habeas corpus case. Petitioner has no constitutional right to appointed counsel in a
25 federal habeas corpus proceeding. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987);
26 *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir. 1993). The decision to appoint counsel is
27 within the Court’s discretion. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986), *cert.*
28 *denied*, 481 U.S. 1023 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), *cert.*

1 denied, 469 U.S. 838 (1984). In this case, petitioner has submitted a pre-printed “form”
2 motion that contains no facts or argument to persuade the Court to appoint counsel in this
3 particular case. The petition on file in this action is sufficiently clear in presenting the
4 issues that petitioner wishes to bring. The issues in this case are not complex. Counsel
5 is not justified and petitioner’s motion is denied. Petitioner’s request for an evidentiary
6 hearing is also denied because petitioner has failed to meet the burden required by 28
7 U.S.C. § 2254(e).

8 It is therefore ordered that the application to proceed *in forma pauperis* (ECF No.
9 1) is granted.

10 It is further ordered that the Clerk file and electronically serve the petition (ECF No.
11 1-1) upon the respondents.

12 It is further ordered that the Clerk file the combined motion for the appointment of
13 counsel and request for an evidentiary hearing (ECF No. 1-2) that was submitted with the
14 *in forma pauperis* motion.

15 It is further ordered that petitioner’s combined motion for the appointment of
16 counsel and request for an evidentiary hearing is denied.

17 It is further ordered that the Clerk of Court send petitioner a copy of the filed
18 petition.

19 It is further ordered that the Clerk of Court add Nevada Attorney General Adam
20 Paul Laxalt to the CM/ECF docket sheet as counsel for respondents.

21 It is further ordered that respondents will have forty-five (45) days from the entry
22 of this order within which to answer, or otherwise respond to, the petition. In their answer
23 or other response, respondents shall address all claims presented in the petition.
24 Respondents must raise all potential affirmative defenses in the initial responsive
25 pleading, including lack of exhaustion and procedural default. Successive motions to
26 dismiss will not be entertained. If an answer is filed, respondents must comply with the
27 requirements of Rule 5 of the Rules Governing Proceedings in the United States District
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1 Courts under 28 U.S.C. §2254. If an answer is filed, petitioner will have forty-five (45)
2 days from the date of service of the answer to file a reply.

3 It is further ordered that any state court record exhibits filed by respondents must
4 be filed with a separate index of exhibits identifying the exhibits by number or letter. The
5 hard copy of all state court record exhibits must be forwarded, for this case, to the staff
6 attorneys in the Reno Division of the Clerk of Court.

7 DATED THIS 6th day of April 2017.

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10 MIRANDA M. DU
11 UNITED STATES DISTRICT JUDGE
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