

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

9 || MARCO GUZMAN,

10 | Petitioner,

3:17-cv-00515-HDM-VPC

11 || vs.

ORDER

12 NEVADA ATTORNEY GENERAL, *et al.*,

13 Respondents.

15 This action is a petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254, by
16 Marco Guzman, a Nevada prisoner. On August 25, 2017, Guzman filed an application to proceed
17 *in forma pauperis* (ECF No. 1), along with his habeas corpus petition (attached to application to
18 proceed *in forma pauperis*, at ECF No. 1-1) and a motion for appointment of counsel (attached to
19 application to proceed *in forma pauperis*, at ECF No. 1-2).
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21 In light of the information provided in the application to proceed *in forma pauperis*, the
22 Court finds that Guzman is able to pay the \$5 filing fee for this action. The Court will deny the
23 application to proceed *in forma pauperis*, but will not require Guzman to pay the filing fee until after
24 counsel appears for him.

25 The information provided in the application to proceed *in forma pauperis* also indicates that
26 Guzman cannot afford counsel. “Indigent state prisoners applying for habeas corpus relief are not

1 entitled to appointed counsel unless the circumstances of a particular case indicate that appointed
2 counsel is necessary to prevent due process violations.” *Chaney v. Lewis*, 801 F.2d 1191, 1196
3 (9th Cir. 1986) (citing *Kreiling v. Field*, 431 F.2d 638, 640 (9th Cir. 1970) (per curiam)). The court
4 may, however, appoint counsel at any stage of the proceedings “if the interests of justice so require.”
5 See 18 U.S.C. § 3006A; see also Rule 8(c), Rules Governing § 2254 Cases; *Chaney*, 801 F.2d at
6 1196. The Court finds that appointment of counsel is in the interests of justice in this case. The
7 Court will grant the motion for appointment of counsel.

8 The Court has reviewed Guzman’s petition, pursuant to Rule 4 of the Rules Governing
9 Section 2254 Cases in the United States District Courts, and determines that it merits service upon
10 respondents and a response by respondents. The court will order the petition served upon
11 respondents, will direct respondents to appear, but will not require any further action on the part of
12 respondents at this time.

13 **IT IS THEREFORE ORDERED** that petitioner’s Application to Proceed *In Forma*
14 *Pauperis* (ECF No. 1) is **DENIED**.

15 **IT IS FURTHER ORDERED** that the Clerk of the Court shall separately file the Petition
16 for Writ of Habeas Corpus (currently attached to application to proceed *in forma pauperis*, at ECF
17 No. 1-1) and the Motion for Appointment of Counsel (currently attached to application to proceed *in*
18 *forma pauperis*, at ECF No. 1-2).

19 **IT IS FURTHER ORDERED** that petitioner’s Motion for Appointment of Counsel is
20 **GRANTED**. The Federal Public Defender for the District of Nevada (FPD) is appointed to
21 represent petitioner. If the FPD is unable to represent the petitioner, due to a conflict of interest or
22 other reason, then alternate counsel will be appointed. In either case, counsel will represent the
23 petitioner in all federal-court proceedings relating to this matter, unless allowed to withdraw.

24 **IT IS FURTHER ORDERED** that the Clerk of the Court shall electronically serve upon the
25 FPD a copy of this order, together with a copy of the Petition for Writ of Habeas Corpus.

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1 **IT IS FURTHER ORDERED** that the FPD shall have **30 days** from the date of entry of this
2 order to file a notice of appearance, or to indicate to the Court its inability to represent the petitioner
3 in this case.

4 **IT IS FURTHER ORDERED** that the time for petitioner to pay the filing fee for this action,
5 or file a new application to proceed *in forma pauperis* is extended. The court will set a new deadline
6 for payment of the filing fee after counsel appear for the petitioner and the respondents.

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

9 **IT IS FURTHER ORDERED** that the Clerk of the Court shall electronically serve upon
10 respondents a copy of the Petition for Writ of Habeas Corpus and a copy of this order.

11 **IT IS FURTHER ORDERED** that respondents shall have **30 days** from the date on which
12 the petition is served upon them to appear in this action. Respondents will not be required to
13 respond to the habeas petition at this time.

14 **IT IS FURTHER ORDERED** that the court will establish a schedule for further
15 proceedings in this case after counsel appear for the petitioner and the respondents.

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17 Dated this 31st day of August, 2017.

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20 UNITED STATES DISTRICT JUDGE

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