

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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FRANCISCO A. LARA,

Case No. 3:17-cv-00544-MMD-WGC

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Petitioner.

ORDER

WARDEN BAKER, *et al.*

Respondents.

This case is a petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254, by Francisco A. Lara, a Nevada prisoner. Lara filed his habeas corpus petition, along with an application to proceed *in forma pauperis*, and a motion for appointment of counsel, on September 7, 2017. (ECF No. 1.) On September 11, 2017, the Court denied Lara's application to proceed *in forma pauperis*, and ordered him to pay the filing fee for this action. (See Order entered September 11, 2017 (ECF No. 3).) Lara paid the filing fee on October 2, 2017. (ECF No. 4.)

The Court has reviewed Lara's habeas petition, pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts, and determines that it merits service upon the respondents. Respondents will not be required to respond to the petition at this time, however, as the Court anticipates that, with counsel, Lara will likely file an amended petition.

The Court will grant Lara's motion for appointment of counsel. "Indigent state prisoners applying for habeas corpus relief are not entitled to appointed counsel unless

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

9 It is therefore ordered that the Clerk of the Court separately file the petition for writ
10 of habeas corpus, and the motion for appointment of counsel, which are currently
11 attached to the *in forma pauperis* application at ECF Nos. 1-1 and 1-2.

12 It is further ordered that the Clerk of the Court add Adam Paul Laxalt, Attorney
13 General of the State of Nevada, as counsel for respondents.

14 It is further ordered that the Clerk of the Court electronically serve upon
15 respondents a copy of the petition for writ of habeas corpus, and a copy of this order.

16 It is further ordered that respondents will have twenty (20) days from the date on
17 which the petition is served upon them to appear in this action. Respondents will not be
18 required to respond to the habeas petition at this time.

19 It is further ordered that petitioner’s Motion for Appointment of Counsel is granted.
20 The Federal Public Defender for the District of Nevada (FPD) is appointed to represent
21 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
23 represent the petitioner in all federal-court proceedings relating to this matter, unless
24 allowed to withdraw.

25 It is further ordered that the Clerk of the Court electronically serve upon the FPD a
26 copy of this order, together with a copy of the petition for writ of habeas corpus.

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It is further ordered that the FPD will have twenty (20) days from the date of entry of this order to file a notice of appearance, or to indicate to the Court its inability to represent the petitioner in this case.

It is further ordered that the Court will establish a schedule for further proceedings in this case after counsel appear for the petitioner and the respondents.

DATED THIS 13th day of October 2017.



MIRANDA M. DU
UNITED STATES DISTRICT JUDGE