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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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DERRICK LAMAR MCKNIGHT,

Petitioner,

v.

WARDEN BAKER, et al.,

Respondents.

Case No. 3:17-cv-00681-MMD-CBC

ORDER

Petitioner has filed a motion for appointment of counsel. (ECF No. 9.) The Court has also reviewed his petition. (ECF No. 6.) Ground 6 is a claim that the trial court erred in admitting locations of cellular phone towers and in permitting a detective to testify regarding records of cellular phone towers. Petitioner might have a Fourth Amendment claim regarding introduction of cellular site location information, under *United States v. Carpenter*, 138 S. Ct. 2206 (2018), which the Supreme Court decided after Petitioner commenced this action. Counsel will help determine whether Petitioner can present a viable claim under *Carpenter*.

Petitioner has also filed a motion for leave to amend (ECF No. 10), and a motion for relief from the judgment (ECF No. 11). These motions are moot because the Court is appointing counsel, and the Court will give counsel the opportunity to file an amended petition.

Petitioner has also filed a motion for a copy of the docket sheet (ECF No. 18), which the Court grants.

It is therefore ordered that Petitioner's motion for appointment of counsel (ECF No. 9) is granted. The Federal Public Defender is provisionally appointed to represent Petitioner.

1 It is further ordered that the Federal Public Defender must, within 30 days from the
2 date that this order is entered, undertake direct representation of Petitioner or indicate to
3 the Court his inability to represent Petitioner in these proceedings. If the Federal Public
4 Defender does undertake representation of Petitioner, he will then have 60 days to file an
5 amended petition for a writ of habeas corpus, if desired. If the Federal Public Defender is
6 unable to represent Petitioner, then the Court will appoint alternate counsel.

7 It is further ordered that neither the foregoing deadline nor any extension thereof
8 signifies or will signify any implied finding of a basis for tolling during the time period
9 established. Petitioner always remains responsible for calculating the running of the
10 federal limitations period under 28 U.S.C. § 2244(d)(1), and timely asserting claims.

11 It is further ordered that the Clerk electronically serve the Federal Public Defender
12 a copy of the petition (ECF No. 6), and a copy of this order.

13 It is further ordered that, notwithstanding Local Rule LR IC 2-2(g), paper copies of
14 any electronically filed exhibits need not be provided to chambers or to the staff attorney,
15 unless later directed by the Court.

16 It is further ordered that Respondents need not respond to the petition (ECF No. 6),
17 unless later directed by the Court.

18 It is further ordered that Petitioner's motion for leave to amend (ECF No. 10) is
19 denied as moot.

20 It is further ordered that Petitioner's motion for relief from judgment (ECF No. 11) is
21 denied as moot.

22 It is further ordered that Petitioner's motion for a copy of the docket sheet (ECF No.
23 18) is granted. The Clerk of Court will send a copy of the docket sheet to Petitioner.

24 DATED THIS 14th day of March 2019



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MIRANDA M. DU
UNITED STATES DISTRICT JUDGE