

1 establish Petitioner's financial eligibility for appointment of counsel. The court finds that
2 appointment of counsel is in the interests of justice given, *inter alia*: (1) Petitioner's lengthy
3 sentencing consisting of two consecutive sentences of life with the possibility of parole
4 after a minimum of ten years on each sentence; (2) the potential complexity of the issues
5 presented; and (3) Petitioner's assertion that substantial medical conditions prevent him
6 from adequately representing himself. The motion for appointment of counsel accordingly
7 will be granted.

8 Finally, Petitioner has moved for a 90-day extension of time within which to file his
9 habeas petition in this case. As there is a petition on file, the Court construes the motion
10 as a motion for extension of time to file an amended petition. As the Court will grant
11 appointed counsel leave to file an amended petition, the motion for extension of time is
12 denied as moot.

13 It therefore is ordered that Petitioner's application (ECF No. 1) to proceed *in forma*
14 *pauperis* is denied. Petitioner will have thirty (30) days from entry of this order within which
15 to have the filing fee of five dollars (\$5.00) sent to the Clerk of Court. Failure to timely
16 comply with this order will result in the dismissal of this action without further advance
17 notice.

18 It further is ordered that the Clerk will file the petition, the motion for appointment
19 of counsel and the motion for extension of time, and will reflect the grant of the motion for
20 appointment of counsel and denial of the motion for extension of time when docketing the
21 motions, in a manner consistent with the Clerk's current practice for such matters. The
22 counsel appointed will represent Petitioner in all federal proceedings related to this
23 matter, including any appeals or certiorari proceedings, unless allowed to withdraw.

24 It further is ordered that the Federal Public Defender will be provisionally appointed
25 as counsel and will have thirty (30) days to undertake direct representation of Petitioner
26 or to indicate to the Court the office's inability to represent Petitioner in these proceedings.
27 If the Federal Public Defender is unable to represent Petitioner, the Court then will appoint
28 alternate counsel. A deadline for the filing of an amended petition and/or seeking other


1 relief will be set after counsel has entered an appearance. The Court anticipates setting
2 the deadline for approximately one hundred twenty (120) days from entry of the formal
3 order of appointment. Any deadline established and/or any extension thereof will not
4 signify any implied finding of a basis for tolling during the time period established.
5 Petitioner at all times remains responsible for calculating the running of the federal
6 limitation period and timely presenting claims. That is, by setting a deadline to amend the
7 petition and/or by granting any extension thereof, the Court makes no finding or
8 representation that the petition, any amendments thereto, and/or any claims contained
9 therein are not subject to dismissal as untimely. See *Sossa v. Diaz*, 729 F.3d 1225, 1235
10 (9th Cir. 2013).

11 It further is ordered, so that the respondents may be electronically served with any
12 papers filed through counsel, that the Clerk will add state attorney general Adam P. Laxalt
13 as counsel for respondents and will make informal electronic service of this order upon
14 respondents by directing a notice of electronic filing to him. Respondents' counsel will
15 enter a notice of appearance within twenty-one (21) days of entry of this order, but no
16 further response will be required from respondents until further order of the Court.

17 The Clerk further will send a copy of this order to the Federal Public Defender and
18 the CJA Coordinator for this division.

19 Finally, the clerk will provide Petitioner two hard copies of this order in proper
20 person. Petitioner will make the necessary arrangements to have a copy of this order
21 attached to the check for the \$5.00 filing fee, if the filing fee is paid through the institution.¹

22 DATED THIS 16th day of April 2018.

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25 
MIRANDA M. DU
UNITED STATES DISTRICT JUDGE

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27 _____
28 ¹It may be more practical for petitioner to pay the filing fee directly from the institution in proper person, without the intermediation of newly provisionally appointed counsel. In all events, this order directs only the time within which the filing fee must be paid, not how it is done.