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14UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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ZACHARY KELSEY,

Case No. 3:18-cv-00174-MMD-VPC

Petitioner,

ORDER

v.

RENEE BAKER, *et al.*,

Respondents.

15 Before the Court is Petitioner Zachary Kelsey's petition for a writ of habeas corpus  
16 pursuant to 28 U.S.C. § 2254. Kelsey, a Nevada prisoner, filed his Petition on April 24,  
17 2018 (ECF No. 1-1), along with an application to proceed *in forma pauperis* (ECF No. 1),  
18 and a motion for appointment of counsel (ECF No. 1-2). On April 27, 2018, the Court  
19 denied the application to proceed *in forma pauperis*, and ordered Kelsey to pay the filing  
20 fee for this action. See Order entered April 27, 2018 (ECF No. 3). Kelsey then paid the  
21 filing fee on May 11, 2018 (ECF No. 4).

22 Therefore, the Court has reviewed Kelsey's habeas petition pursuant to Rule 4 of  
23 the Rules Governing Section 2254 Cases in the United States District Courts. The Court  
24 will direct the Clerk of the Court to serve the Petition upon the Respondents, and will  
25 require a response.

26 Kelsey filed, with his Petition, a motion for appointment of counsel (ECF No. 1-2).  
27 "Indigent state prisoners applying for habeas corpus relief are not entitled to appointed  
28 counsel unless the circumstances of a particular case indicate that appointed counsel is

1 necessary to prevent due process violations.” *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th  
2 Cir. 1986) (citing *Kreiling v. Field*, 431 F.2d 638, 640 (9th Cir. 1970) (per curiam)). The  
3 court may, however, appoint counsel at any stage of the proceedings “if the interests of  
4 justice so require.” See 18 U.S.C. § 3006A; see also Rule 8(c), Rules Governing § 2254  
5 Cases; *Chaney*, 801 F.2d at 1196. It appears to the Court that appointment of counsel is  
6 not warranted in this case. The motion for appointment of counsel will be denied.

7 It is therefore ordered that the Clerk of the Court is directed to separately file the  
8 petition for writ of habeas corpus and the motion for appointment of counsel, each of  
9 which is currently attached to the *in forma pauperis* application at ECF No. 1.


10 It is further ordered that the Clerk of the Court is directed to add Adam Paul Laxalt,  
11 Attorney General of the State of Nevada, as counsel for Respondents.

12 It is further ordered that the Clerk of the Court is directed to electronically serve  
13 upon Respondents a copy of the petition for writ of habeas corpus and a copy of this  
14 Order.

15 It is further ordered that Respondents will have sixty (60) days from the date on  
16 which the Petition is served upon them to appear in this action, and to answer or otherwise  
17 respond to the Petition. If Respondents file an answer, Petitioner will have sixty (60) days  
18 to file a reply to the answer. If Respondents file a motion to dismiss, Petitioner will have  
19 sixty (60) days to file a response to the motion to dismiss, and then Respondents will  
20 have thirty (30) days to file a reply to Petitioner’s response.

21 It is further ordered that Petitioner’s motion for appointment of counsel is denied.

22 DATED THIS 16<sup>th</sup> day of May 2018.

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26 MIRANDA M. DU,  
27 UNITED STATES DISTRICT JUDGE  
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