

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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RONALD EUGENE ALLEN, JR.

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Petitioner:

Case No. 3:21-cv-00141-MMD-WGC

ORDER

WILLIAM GITTERE, *et al.*

Respondents.

This action began with a petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2241, filed by Petitioner by Ronald Eugene Allen, Jr., an individual incarcerated at Idaho's Ely State Prison. On March 29, 2021, Allen filed an application to proceed *in pauperis* (ECF No. 1), along with his habeas petition (ECF No. 1-1), and a motion for appointment of counsel (ECF No. 1-2).

The application to proceed *in forma pauperis* is incomplete in that it does not include a completed financial certificate. See LSR 1-2. The Court will deny the application to proceed *in forma pauperis* on that ground but will not require Allen to pay the filing fee, or file a new *in forma pauperis* application, until after counsel appears for him.

State prisoners applying for habeas corpus relief are not entitled to appointed counsel unless the circumstances indicate that appointed counsel is necessary to prevent due process violations. *See Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986) (citing *Kreiling v. Field*, 431 F.2d 638, 640 (9th Cir. 1970) (per curiam)). The Court may, however, appoint counsel at any stage of the proceedings if the interests of justice so require. *See* 18 U.S.C. § 3006A; *see also* Rule 8(c), Rules Governing § 2254 Cases; *Chaney*, 801 F.2d at 1196. Allen's petition indicates that he is serving a sentence of life in prison with the possibility of parole after ten years, and it appears that the petition raises issues that

1 may be relatively complex, such that Allen will not be able to adequately litigate this action
2 without counsel. The Court therefore finds that appointment of counsel is in the interests
3 of justice. The Court will grant Allen's motion for appointment of counsel and will appoint
4 the Federal Public Defender for the District of Nevada ("FPD") to represent him.

5 The Court has examined Allen's petition pursuant to Rule 4 of the Rules Governing
6 Section 2254 Cases in the United States District Courts and determines that it merits
7 service upon Respondents. The Court will order the petition served upon Respondents,
8 and will direct Respondents to appear, but will not require any further action on the part
9 of the Respondents at this time.

10 It is therefore ordered that Petitioner's Application to Proceed *in Forma Pauperis*
11 (ECF No. 1) is denied.

12 It is further ordered that the Clerk of Court is directed to separately file the Petition
13 for Writ of Habeas Corpus (ECF No. 1-1), and the Motion for Appointment of Counsel
14 (ECF No. 1-2).

15 It is further ordered that Petitioner's Motion for Appointment of Counsel (ECF No.
16 1-2) is granted. The Federal Public Defender for the District of Nevada is appointed to
17 represent Petitioner. If the FPD is unable to represent Petitioner, because of a conflict of
18 interest or for any other reason, alternate counsel will be appointed. In either case,
19 counsel will represent the Petitioner in all federal court proceedings relating to this matter,
20 unless allowed to withdraw.

21 It is further ordered that the Clerk of Court is directed to electronically serve upon
22 the FPD a copy of this order, together with a copy of the Petition for Writ of Habeas Corpus
23 (ECF No. 1-1).

24 It is further ordered that the FPD will have 30 days from the date of this order to
25 file a notice of appearance, or to indicate to the Court its inability to represent the
26 Petitioner in this case.

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It is further ordered that the requirement that Petitioner pay the filing fee for this action or file a new application to proceed *in forma pauperis* is suspended. The Court will set a deadline for payment of the filing fee or filing of a new application to proceed *in forma pauperis* after counsel appears for Petitioner.

It is further ordered that the Clerk of Court is directed to add Aaron Ford, Attorney General of the State of Nevada, as counsel for Respondents, and to provide Respondents an electronic copy of all items previously filed in this case by regenerating the Notice of Electronic Filing to the office of the Attorney General only.

It is further ordered that the Clerk of Court is directed to electronically serve upon Respondents a copy of the Petition for Writ of Habeas Corpus (ECF No. 1-1) and a copy of this order.

It is further ordered that Respondents will have 30 days from the date of this order to appear in this action. Respondents will not be required to respond to the habeas petition at this time.

DATED THIS 31st Day of March 2021.


MIRANDA M. DU
CHIEF UNITED STATES DISTRICT JUDGE