

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF OKLAHOMA

FILED

APR - 1 2010

WILLIAM J. ... CLERK U.S. DISTRICT COURT By Deputy Clerk

JUSTIN HEATH GORE, )
Petitioner, )
v. )
ERIC FRANKLIN, Warden, )
Respondent. )

No. CIV 07-020-RAW-KEW

OPINION AND ORDER

On March 31, 2010, the district court referred this action to the Magistrate Judge for an evidentiary hearing and a second Report and Recommendation regarding Grounds II and III of petitioner's petition for a writ of habeas corpus [Docket #31]. The court is required to appoint counsel for petitioner, if he qualifies under 18 U.S.C. § 3006A. See Rule 8(c) of the Rules Governing Section 2254 Cases; see also Swazo v. Wyoming Dep't of Corr. State Penitentiary Warden, 23 F.3d 332, 333 (10th Cir. 1994) (holding that appointment of counsel is mandatory in habeas corpus proceeding when an evidentiary hearing is required).

ACCORDINGLY, petitioner is directed to complete a Financial Affidavit and to have the authorized officer at his institution complete a Statement of Institutional Accounts. Petitioner is further directed to file the two financial forms with the court within twenty (20) days, so the court can determine his eligibility for appointed counsel. The Court Clerk is directed to send petitioner the two financial forms and to send a copy of this order to petitioner's custodian and the trust fund officer at petitioner's facility.

IT IS SO ORDERED this 1st day of April 2010.

[Signature]
KIMBERLY E. WEST
UNITED STATES MAGISTRATE JUDGE