

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MARLOW TODD EGGUM,

Petitioner,

v.

JEFFERY UTTECHT,

Respondent.

Case No. C14-1328-RAJ-MAT

ORDER APPOINTING COUNSEL,
TEMPORARILY LIFTING STAY, AND
DIRECTING RESPONSE FROM
RESPONDENT

This is a federal habeas action filed under 28 U.S.C. § 2254. On April 26, 2016, the Court entered a stay pending resolution of petitioner’s state court proceedings. (*See* Dkt. 63.) On January 18, 2017, petitioner moved for appointment of counsel. (Dkt. 82.) The Court referred the matter to the Office of the Federal Public Defender (“FPD”) for review. (Dkt. 83.) On May 12, 2017, the FPD notified the Court of its intent to seek appointment in this matter. (Dkt. 91.) The FPD also asked the Court to lift the stay to allow it to file a supplemental brief in support of petitioner’s habeas petition. (*Id.*) Based on the foregoing, the Court finds and ORDERS:

(1) Because of the complex issues involved in this case, appointment of counsel would serve the interest of justice. *See* 18 U.S.C. § 3006A(a)(2)(B). As required by statute, petitioner has demonstrated financial eligibility. (Dkt. 91-1.) Accordingly, petitioner’s motion to appoint

1 counsel (Dkt. 82) is GRANTED. The Court appoints Assistant Federal Public Defender Ann
2 Wagner to represent petitioner in these proceedings.

3 (2) The stay in this matter (Dkt. 63) is TEMPORARILY LIFTED to allow for briefing
4 and ruling on petitioner's motion to file a supplemental brief (Dkt. 91).

5 (3) Respondent shall file a response to petitioner's motion to file a supplemental brief
6 by **June 5, 2017**. In addition to addressing petitioner's motion, respondent shall address the
7 continued appropriateness of the scope of the stay entered on April 26, 2016. Specifically, is it
8 still necessary to stay this matter pending completion of Washington Court of Appeals Cause Nos.
9 74284-1, 72194-1, 74621-9, and any other state-court actions petitioner files that are related to his
10 2009 criminal case and this federal habeas action, or could this action proceed at an earlier time?

11 (4) Petitioner shall file a reply by **June 9, 2017**, that also addresses the continued
12 appropriateness of the scope of the stay entered on April 26, 2016.

13 (5) The Clerk is directed to NOTE petitioner's motion to file a supplemental brief (Dkt.
14 91) for June 9, 2017, and direct copies of this Order to the parties and to the Honorable Richard
15 A. Jones.

16 DATED this 17th day of May, 2017.

17
18 
19 Mary Alice Theiler
20 United States Magistrate Judge
21
22
23