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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

xxx,	)	
	)	
Petitioner,	)	xxx
	)	
vs.	)	<b>ORDER</b>
	)	
E.K. McDANIEL, <i>et al.</i> ,	)	
	)	
Respondents.	)	
	)	
	/	

This action is a petition for a writ of habeas corpus pursuant to 28 U.S.C. §2254 by xxx, a Nevada prisoner under sentence of death. Petitioner’s *pro se* habeas corpus petition (docket #xxx) was filed on xxx. Petitioner has paid the \$5 filing fee for this action.

Despite the fact that he paid the \$5 filing fee, petitioner also filed an Application for Leave to Proceed *in Forma Pauperis* (docket #xxx). In view of the information petitioner has provided with his application, regarding his financial status, the court will grant petitioner’s motion in part and deny it in part. The court will not waive payment of the \$5 filing fee, but will grant petitioner leave to proceed *in forma pauperis* with respect to subsequent fees and costs.

Petitioner also filed a Motion for Appointment of Counsel (docket #xxx). Petitioner’s Application for Leave to Proceed *in Forma Pauperis* shows that petitioner lacks the resources necessary to employ counsel to prosecute this capital habeas corpus proceeding. Therefore, pursuant to 18 U.S.C. §3599, in the interest of justice, the Federal Public Defender for the District of Nevada

1 (FPD) shall be appointed to represent petitioner. If the FPD is unable to represent petitioner, due to  
2 a conflict of interest or other reason, then alternate counsel for petitioner will be located, and  
3 appointed by the court. Petitioner's appointed counsel will represent him in all future federal  
4 proceedings in this court relating to this matter, including subsequent actions, and appeals therefrom,  
5 pursuant to 18 U.S.C. §3599, until allowed to withdraw.

6 **IT IS THEREFORE ORDERED** that petitioner's Application for Leave to Proceed  
7 *in Forma Pauperis* (docket #xxx) is **GRANTED IN PART AND DENIED IN PART**. The  
8 Application for Leave to Proceed *in Forma Pauperis* is **DENIED** with respect to waiver of payment  
9 of the filing fee, but **GRANTED** with respect to subsequent fees and costs.

10 **IT IS FURTHER ORDERED** that petitioner's Motion for Appointment of Counsel  
11 (docket #xxx) is **GRANTED**. The Federal Public Defender for the District of Nevada is appointed  
12 to represent petitioner. The Federal Public Defender shall have **thirty (30) days** from the date of  
13 entry of this order to undertake representation of petitioner or to indicate to the court its inability to  
14 represent petitioner in these proceedings.

15 **IT IS FURTHER ORDERED** that the Clerk of Court shall **SERVE** a copy of this Order on  
16 xxx, Capital Habeas Division, Office of the Federal Public Defender, 411 East Bonneville Ave.,  
17 Ste. 250, Las Vegas, NV 89101.

18 **IT IS FURTHER ORDERED** that the Clerk shall **SERVE** the respondents, electronically,  
19 with a copy of this order and a copy of the habeas corpus petition (docket #xxx). Respondents'  
20 counsel shall file a Notice of Appearance of Counsel within **thirty (30) days** from the date of entry  
21 of this order, but shall not answer the habeas corpus petition until the court orders otherwise.

22 Dated this \_\_\_\_\_ day of October 2009.  
23  
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25 \_\_\_\_\_  
26 UNITED STATES DISTRICT JUDGE