

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

Armando Delarosa v. Debrah Borgas

Delarosa · No. 3:25-cv-00749-MMD-CLB · Decided January 12, 2026

SUMMARY

The United States District Court for the District of Nevada screened Armando Delarosa’s petition for a writ of habeas corpus under 28 U.S.C. § 2254 and found that service was warranted. The court provisionally appointed the Federal Public Defender to represent Delarosa because the interests of justice supported appointment, including the allegation that the victim had recanted. The court directed Nevada’s counsel to appear and set deadlines for counsel’s response while making no determination regarding timeliness or tolling.

CASE DETAILS

COURT	United States District Court for the District of Nevada
WRITING FOR THE COURT	Miranda M. Du
JURISDICTION	United States District Court for the District of Nevada
DECIDED	January 12, 2026
DOCKET	3:25-cv-00749-MMD-CLB
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner commenced a federal habeas action under 28 U.S.C. § 2254, filed a petition and a motion for appointment of counsel, and sought leave to proceed in forma pauperis. After screening the petition under Habeas Rule 4, the court ordered service and provisionally appointed the Federal Public Defender.
STANDARD OF REVIEW	Under Habeas Rule 4, the court must examine the petition and order a response unless it plainly appears that the petitioner is not entitled to relief. The court may dismiss petitions that are patently frivolous, vague, conclusory, palpably incredible, false, or plagued by procedural defects.
PRECEDENTIAL VALUE	Unpublished district court order; precedential status unknown and not reported.
PARTIES	Armando Delarosa v. Debrah Borgas

TOPICS

federal habeas corpus

post-conviction relief

pleadings

due process

civil procedure

PRACTICE AREAS

Federal habeas corpus

Post-conviction relief

Civil procedure

QUESTIONS PRESENTED

1. Whether the federal habeas petition warranted service under Habeas Rule 4.
2. Whether counsel should be appointed for the indigent petitioner in the federal habeas proceeding.

HOLDINGS

1. The petition was not shown at the initial-review stage to be plainly unentitled to relief, so service of the petition on respondents was warranted.
2. The court provisionally appointed the Federal Public Defender because appointment was in the interests of justice, while recognizing that appointment is generally discretionary and that there is no constitutional right to appointed counsel in a federal habeas proceeding.

KEY QUOTATIONS

“This rule allows courts to screen and dismiss petitions that are patently frivolous, vague, conclusory, palpably incredible, false, or plagued by procedural defects.” (at 1)

“However, counsel must be appointed if the complexities of the case are such that denial of counsel would amount to a denial of due process, and where the petitioner is a person of such limited education as to be incapable of fairly presenting his claims.” (at 2)

FACTUAL BACKGROUND

Delarosa was convicted in Nevada state court pursuant to a guilty plea of two counts of lewdness with a child under fourteen. He received two concurrent life sentences with the possibility of parole after ten years. His direct appeal was affirmed, and his state habeas proceedings concluded after the Nevada Court of Appeals affirmed denial of relief in September 2025. In his federal petition, Delarosa sought appointment of counsel and represented that the victim had recanted her allegations.

PROCEDURAL HISTORY

Delarosa pleaded guilty in Nevada state court and was convicted and sentenced to two concurrent life sentences with parole eligibility after ten years. The Nevada Court of Appeals affirmed his conviction in 2020. His later state habeas petition was initially dismissed as untimely, was remanded after appellate reversal, and was ultimately denied with the denial affirmed in 2025. He then filed this federal habeas petition, which the district court screened and ordered served while appointing counsel.

DISPOSITION

CASES CITED

- Valdez v. Montgomery, 918 F.3d 687, 693 (9th Cir. 2019)
- Boyd v. Thompson, 147 F.3d 1124, 1128 (9th Cir. 1998)
- Hendricks v. Vasquez, 908 F.2d 490, 491 (9th Cir. 1990)
- Pennsylvania v. Finley, 481 U.S. 551, 555 (1987)
- Luna v. Kernan, 784 F.3d 640, 642 (9th Cir. 2015)
- Lawrence v. Florida, 549 U.S. 327, 336-37 (2007)
- LaMere v. Risley, 827 F.2d 622, 626 (9th Cir. 1987)
- Brown v. United States, 623 F.2d 54, 61 (9th Cir. 1980)
- Sossa v. Diaz, 729 F.3d 1225, 1235 (9th Cir. 2013)

OPINION

1 2 3 UNITED STATES DISTRICT COURT 4 DISTRICT OF NEVADA 5 * * * 6 ARMANDO
DELAROSA, Case No. 3:25-cv-00749-MMD-CLB 7 Petitioner, ORDER v. 8 9 DEBRAH
BORGAS, 10 Respondent. 11 Pro se Petitioner Armando Delarosa commenced this federal habeas
action by 12 filing a motion for leave to proceed in forma pauperis. (ECF No. 1 (“IFP Motion”).)
Based 13 on Delarosa’s Financial Certificate, the Court found that good cause existed to grant the
14 IFP Motion.

(ECF No. 5.) The Court then ordered Delarosa to file a federal habeas 15 petition. (Id.) Delarosa
timely complied, filing a Petition for Writ of Habeas Corpus under 16 28 U.S.C. § 2254 and
moving for the appointment of counsel. (ECF No. 6 (“Petition”).) 17 Following an initial review
of the Petition under the Rules Governing Section 2254 Cases 18 (“Habeas Rules”), the Court
directs service of the Petition and appoints counsel.

19 I. BACKGROUND1 20 Delarosa challenges a conviction and sentence imposed by the Eighth
Judicial 21 District Court for Clark County. State of Nevada v. Armando Delarosa, C-18-330079-
1. 22 On April 25, 2019, the state court entered a judgment of conviction, pursuant to a guilty 23
plea, convicting Delarosa of two counts with lewdness with a child under the age of 14.

24 Delarosa was sentenced to two concurrent sentences of life with the possibility of parole 25 26
1The Court takes judicial notice of the online docket records of the Eighth Judicial District Court
for the State of Nevada (<https://perma.cc/Y5GT-CXTV>) and Nevada 27 appellate courts
(<https://perma.cc/8Z7K-G6GZ>). 1 after 10 years. Delarosa appealed, and the Nevada Court of
Appeals affirmed on May 11, 2 2020.

Armando Delarosa, Jr. v. State of Nevada, No. 78803-COA. Remittitur issued on 3 June 5, 2020. 4 Delarosa filed a state habeas petition on June 7, 2021. Armando Delarosa v. State of Nevada, A-21-835852-W. The state court dismissed Delarosa's state habeas petition 6 as untimely on July 22, 2022. Delarosa appealed, and the Nevada Court of Appeals 7 reversed on July 12, 2023.

Armando Delarosa, Jr. v. State of Nevada, No. 85232-COA. 8 Following the remand, the state court denied Delarosa's state habeas petition on 9 September 25, 2024. Delarosa appealed, and the Nevada Court of Appeals affirmed on 10 September 29, 2025. Armando Delarosa v. State of Nevada, No. 89428-COA. Remittitur 11 issued on October 20, 2025. 12 II. DISCUSSION 13 Habeas Rule 4 requires the assigned judge to examine a habeas petition and order 14 a response unless it "plainly appears" that the petition is not entitled to relief.

See Valdez 15 v. Montgomery, 918 F.3d 687, 693 (9th Cir. 2019). This rule allows courts to screen and 16 dismiss petitions that are patently frivolous, vague, conclusory, palpably incredible, false, 17 or plagued by procedural defects. Boyd v. Thompson, 147 F.3d 1124, 1128 (9th Cir. 18 1998); Hendricks v. Vasquez, 908 F.2d 490, 491 (9th Cir. 1990) (collecting cases).

The 19 Court finds that service is warranted in the instant case.² 20 The Court now turns to Delarosa's request for counsel. (ECF No. 6 at 10-11.) There 21 is no constitutional right to appointed counsel for a federal habeas corpus proceeding. 22 *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Luna v. Kernan*, 784 F.3d 640, 642 23 (9th Cir. 2015) (citing *Lawrence v. Florida*, 549 U.S. 327, 336-37 (2007)).

An indigent 24 25 2The Court notes that Delarosa's AEDPA deadline for filing his federal habeas petition would have expired on or about December 23, 2025. However, because 26 Delarosa's deadline to file a Writ of Certiorari following the affirmation of his judgment of 27 conviction was extended from 90 days to 150 days due to COVID, the Court notes, without deciding, that Delarosa's AEDPA deadline expires on or about February 23, 2026.

1 petitioner may request appointed counsel to pursue that relief. 18 U.S.C. § 2 3006A(a)(2)(B). The decision to appoint counsel is generally discretionary. *Id.* 3 (authorizing appointed counsel when "the interests of justice so require").

However, 4 counsel must be appointed if the complexities of the case are such that denial of counsel 5 would amount to a denial of due process, and where the petitioner is a person of such 6 limited education as to be incapable of fairly presenting his claims. See *LaMere v. Risley*, 7 827 F.2d 622, 626 (9th Cir. 1987); *Brown v. United States*, 623 F.2d 54, 61 (9th Cir.

1980). 8 The Court provisionally appoints the Federal Public Defender to represent 9 Delarosa. The Court finds that the appointment of counsel is in the interests of justice 10 given, among other things, the fact that the victim recanted her allegations against 11 Delarosa. (ECF No. 6 at 13, 15, 20-21.) 12 III. CONCLUSION 13 It is therefore ordered that the Clerk of Court add Aaron Ford,

Attorney General of 14 the State of Nevada, as counsel for Respondents, and electronically provide 15 Respondents' counsel a copy of the Petition (ECF No. 6), this Order, and all items 16 previously filed in this case by regenerating the Notices of Electronic Filing.

17 The Clerk of Court is further directed to send a copy of this Order and the Petition 18 (ECF No. 6) to the Federal Public Defender and send a copy of this Order to Delarosa 19 and the CJA Coordinator for this division. 20 It is further ordered that Respondents' counsel enter a notice of appearance within 21 14 days of entry of this Order. No further response will be required until further order.

22 It is further ordered that the Federal Public Defender is provisionally appointed as 23 counsel and will have 30 days to (1) undertake direct representation of Delarosa by filing 24 a notice of appearance or (2) indicate the office's inability to represent Delarosa in these 25 proceedings. If the Federal Public Defender is unable to represent Delarosa, the Court 26 will appoint alternate counsel.

Appointed counsel will represent Delarosa in all federal 27 proceedings related to this matter, including any appeals or certiorari proceedings, unless 1 || allowed to withdraw. A deadline for the filing of an amended petition and/or seeking other 2 || relief will be set after counsel has entered an appearance. 3 It is further ordered that any deadline established and/or any extension thereof will 4 || not signify any implied finding of a basis for tolling during the time period established.

5 || Delarosa remains responsible for calculating the running of the federal limitation period 6 || and timely presenting claims. That is, by setting a deadline to amend the Petition and/or 7 || by granting any extension thereof, the Court makes no finding or representation that the 8 || Petition, any amendments thereto, and/or any claims contained therein are not subject to 9 || dismissal as untimely.

See *Sossa v. Diaz*, 729 F.3d 1225, 1235 (9th Cir. 2013). 10 DATED THIS 12" Day of January 2026. 12 MIRANDA M. DU 13 UNITED STATES DISTRICT JUDGE 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28