

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.

OPINION

Delarosa

PER CURIAM.

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 5 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

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