UNITED STATES DISTRICT COURT DISTRICT OF NEW JERSEY

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JAN 2 7 2014

AT 8:30_

WILLIAM T. WALSH CLERK

Petitioner,

WILLIAM BASKERVILLE

V.

Case No. CR-03-836

Civil Action No. 13-588-(JAP)

UNITED STATES OF AMERICA RESPONDENT,

MOTION FOR THE APPOINTMENT OF COUNSEL

Now COMES the Petitioner, William Baskerille, pro se respectfully requesting this Honorable Court for the appointment of counsel. In support of the forgoing motion, petitioner avers the following:

Application for appointment of counsel in a Title 18 Section 2255 proceeding should be pursuant to criminal Justice Act; 18 USC Section 3006 A (1994), Which requires Federal Distrct Court's to adopt appointment of counsel plans that grant Judge's authority/ to appoint lawyers to represent indigent habeas corpus petitioner s See, Title 18 USC Section 3006 A (a)(2)(b)(1994).

Rule 8(c), rule governing section § 2255 cases states that,"these rules do not limit the appointment of counsel under § 3006 A at any stage of the proceeding." See McFarland v. Scott, 215 US 863 (1994).

Courts have "held that counsel must be appointed to represent indigent defendants in 2255 proceedings when the complexities of the case are such that denial of counsel would amount to a denial of due process." See Brown v. U.S., 623 f.2d 54,61(9th Cir.1980).

Moreover in the case of <u>Battle v_n Armontrout</u>, 902F.2d 701(8th Cir 1990), the Court stated concerning the appoinment of counsel that "Several factors should influence the court's decision, including the pro se litigant's ability to investigate facts and present claims and the complexity of the fact and legal issues." See, Battle at 902 f.2d 702.

The Battle Court further stated:

The factual and legal issues sufficiently complex and numerous that appointment of counsel would benefit both Battle and the

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court by allowing counsel to develop Battle's arguments and focus the court's analysis. Of course, the complexity of the issues takes on greater significance in a case involving the death penalty. Id 902f.2d 702.

Citing Chaney v. Lewis, 801f.2d 1191,1196(9th Cir. 1986)(complexity of issues coupled with death penalty requires appointment of counsel.)

If the petitioner so qualifies as a capital defendant then there maybe yet another statue which may apply to him requiring the appointment of counsel. The Supreme Court stated in relations to section 848(q)(4)(B) that," In any post conviction proceeding under 2254 or 2255 of title 28, seeking to vacate or set aside a death sentence, any defendant who is or becomes financially unable to obtain adequate representation or investigative, expert, or other reasonably necessary services shall be entitled to appointment of one or more attorneys and the furnishing of such other services in accordance with paragraphs (5),(6),(7),(8), and (9).1/

Petitioner submits that this Court should appoint counsel to represent him in the instant case principally due to:(1) petitioner poverty and inability to retain counsel;(2) the fact that petitioner lacks education and is unfamiliar with the law and procedures making him legally unsophisticated;(3)the fact that petitioner's claims are meritorious and will turn on substantial and complex procedural and mixd legal and factual issues, and in the interest of justice, in conformity with Battle v. Armontrout,(Supra).

Other such factors that the Court should consider for the appointment of counsel to the petitioner; is the need of counsel to interview, depose and subpoena witnesses to appear, or evidence production by expansion of the record, as well as other factors. See U.S. v. Gardiner, 666 F. Supp. 267,274(D. Maine 1987) (Expansion of the record is required in the present case to determine whether petitioner's claim that he was denied effective assistance of counsel has merit.)

CONCLUSION

WHEREFORE, the petitioner implore that this Honorable Court to appoint him counsel to help with further court proceeding.

Respectfully submitted this 22 day of January, 2014.

Petitioner, Pro Se

1/Although the petitioner did not receive a death sentence the jury in his case was not unanimous against the imposition for death. So if this Court were to vacate the petitioner's sentence and conviction and if the government sought to retry him the option of receiving a death sentence would still be one that is viable to him.

DECLARATION OF SERVICE AND MAILING

I, William Baskerville, do hereby state undre penalty of perjury pursuant to Title 28 U.S.C.§ 1746 that I have this day served and mailed/filed this "Petitioner's Pro Se Motion For TheAppointment of Counsel", by depositing such in the prison mailing system with 1st class prepaid postage affixed. I have addressed as follow:

U.S. District Court
District of New Jersey
Office of the Clerk of Court
402 E. State Street, Room 2020
Trenton, New Jersey 08608

Done this 22 day of January, 2014

William Baskerville

Reg.#25940-050

Federal Correctional Complex

U.S.P. #1 P.O.Box 1033

Coleman, Florida 33521

January 22,2014

William Baskerville Reg. #25946-050 Federal Correctional Complex U.S.P. #1 P.O. box 1033 Coleman, Florida 33521

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AT 8:30 M WILLIAM T. WALSH CLERK

U.S. District Court District of New Jersey Office of the Clerk of Court 402 E. State Street, Room 2020 Trenton, New Jersey

Re: U.S.v. Baskerville ,Criminal# CR-03-836 Civil 13-5881(JAP)

Dear Honorable Clerk of Court,

Please find for filing and consideration by the Court my pro se "Motion For The Appointment of Counsel", "Application To Proceed Without Payment of Fees and Affidavt" and a "Declaration of service and Mailing".

I request that your office pleas return a clock-filed copy. I have provided a SASE envolope for your convenience to return.

Thank you for your time and concidration in this matter.

Respectfully

Pro Se Petitioner

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