

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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LARRY SPENCER,

Petitioner,

v.

CATHY FARREY, Warden,  
New Lisbon Correctional Institution,

Respondent.

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ORDER

05-C-0666-C

Petitioner Larry Spencer seeks writ of habeas corpus pursuant to 28 U.S.C. § 2254. On November 23, 2005, this court reviewed the petition preliminarily and ordered the state to respond to some of petitioner's 13 claims. Now before the court is a letter from petitioner filed November 22, 2005 in which he asserts that he is incompetent to represent himself and would like guidance from the court as to how he could obtain a lawyer.

Under the Criminal Justice Act, 18 U.S.C. § 3006A, this court may appoint counsel for a petitioner seeking relief under 28 U.S.C. § 2254. In light of petitioner's prolix, disjointed petition and the state circuit court's conclusion that petitioner, though competent to stand trial, was incompetent to represent himself, this appears to be a case in which the interests of justice warrant appointing a lawyer.

That said, state court documents show that petitioner has a troubling habit of firing attorneys and filing complaints against them if they do not prosecute his case exactly as he wants. In fact, the bulk of his petition consists of serious allegations of wrongdoing against

one of his state court attorneys. Accordingly, I am advising petitioner that this court will appoint one attorney to represent him, and this court shall not replace this attorney if petitioner becomes dissatisfied with counsel. This court expects petitioner to cooperate fully with his appointed attorney and to consider with an open mind to his attorney's advice concerning how to best pursue relief under § 2254. If petitioner chooses not to cooperate with his appointed lawyer or insists on a course of action that petitioner's lawyer cannot accept, then it is likely that this court will relieve counsel from any further duties and thereafter petitioner shall pursue relief *pro se*. The scope of counsel's representation shall be limited to seeking petitioner's release from confinement by collaterally attacking petitioner's Dane County conviction for forgery. It shall *not* include filing civil lawsuits against anyone involved in petitioner's case.

If petitioner is unwilling to accept these conditions or if he does not think he can follow these conditions, then he should withdraw his request for appointed counsel rather than waste his time and the time of a panel attorney. I will give petitioner until December 15, 2005, within which to advise the court that he accepts these terms and would like this court to appoint an attorney to represent him in seeking federal habeas relief. If petitioner does not timely respond to this order, then the court will deem this a withdrawal of petitioner's request for an attorney.

In the interim, the state's deadline for responding to the petition is stayed. I will set a new response deadline once we have determined how to proceed.

ORDER

IT IS ORDERED that petitioner has until December 15, 2005, to advise the court whether he wants the court to appoint a lawyer to represent him.

It is FURTHER ORDERED that the state's response deadline is STAYED pending further order of the court.

Entered this 2<sup>nd</sup> day of December, 2005.

BY THE COURT:

/s/

STEPHEN L. CROCKER

Magistrate Judge