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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

STEFAN E. EVANS,

Petitioner,

vs.

SOTO,

Respondent.

1:12-cv-01652-LJO-BAM (HC)

ORDER CONSTRUING MOTION TO BE IN  
PART OPPOSITION TO RESPONDENT'S  
MOTION TO DISMISS (DOC. 19)

ORDER DENYING MOTION FOR  
APPOINTMENT OF COUNSEL

(DOCUMENT #19)

On March 28, 2013, Respondent filed a motion to dismiss the petition on the ground that it had been filed outside the one-year statute of limitations. On April 24, 2013, Petitioner filed a paper that he described as a motion to excuse harmless negligence and a motion to appoint counsel. Review of the paper shows that although it is in part a motion for the appointment of counsel, it constitutes opposition to Respondent's motion to dismiss. Therefore, Petitioner's motion is CONSTRUED in part as opposition to Respondent's motion to dismiss the petition.

Petitioner has requested the appointment of counsel. There currently exists no absolute right to appointment of counsel in habeas proceedings. See, e.g., Anderson v. Heinze, 258 F.2d 479, 481 (9th Cir. 1958); Mitchell v. Wyrick, 727 F.2d 773, 774 (8th Cir. 1984). However, Title 18 U.S.C. § 3006A(a)(2)(B) authorizes the appointment of counsel at any stage of the case if "the interests of justice so require." See Rule 8(c), Rules Governing Section 2254

1 Cases. In the present case, the Court does not find that the interests of justice require the  
2 appointment of counsel at the present time. Accordingly, IT IS HEREBY ORDERED that  
3 Petitioner's request for appointment of counsel is denied.

4 IT IS SO ORDERED.

5 **Dated: April 29, 2013**

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE

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