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6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF CALIFORNIA
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9 BERNARD C. HUGHES,

10 Petitioner,

11 v.

12 WARDEN MARTIN BITER,

13 Respondent.

CASE NO. 1:14-cv-01237-LJO-BAM HC

ORDER DENYING PETITIONER'S MOTION
FOR APPOINTMENT OF COUNSEL

(Doc. 28)

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16 Petitioner, proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. §
17 2254, moves for appointment of counsel. Petitioner contends that recent modifications of his
18 antidepressant medication render him unable to address the complex issues in preparing his reply
19 (traverse).

20 In habeas proceedings, no absolute right to appointment of counsel currently exists. *See, e.g.,*
21 *Anderson v. Heinze*, 258 F.2d 479, 481 (9th Cir. 1958); *Mitchell v. Wyrick*, 727 F.2d 773, 774 (8th Cir.
22 1984). Nonetheless, a court may appoint counsel at any stage of the case "if the interests of justice so
23 require." 18 U.S.C. § 3006A(a)(2)(B); Rule 8(c), Rules Governing Section 2254 Cases.

24 In the above-captioned case, the Court finds no evidence that the interests of justice require the
25 appointment of counsel in this case at this time. The well-prepared petition submitted by Plaintiff
26 presents issues that are no more complex than the issues submitted in the vast majority of petitions for
27 writ of habeas corpus filed in this Court. Although Rule 5(e) of the Rules Governing Section 2254
28 Cases in the United States District Courts authorizes the filing of a reply (traverse) to the respondent's

1 answer, the petitioner is not required to file a reply. Further, a petitioner may not introduce issues in a
2 reply (traverse). *United States v. Cox*, 7 F.3d 1458, 1463 (9th Cir. 1993). In this case, the grounds for
3 relief have been well-briefed, and the record is complete but for the filing of the optional reply.

4 Accordingly, Petitioner's motion for appointment of counsel is hereby DENIED.

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6 IT IS SO ORDERED.

7 Dated: October 23, 2015

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE

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