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8 **UNITED STATES DISTRICT COURT**
9 EASTERN DISTRICT OF CALIFORNIA
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11 ISCANDER FRANCISCO MADRIGAL,

12 Petitioner,

13 v.

14 JEFF MACOMBER,

15 Respondent.

Case No. 1:14-cv-01436-LJO-SAB-HC

ORDER DENYING AS MOOT MOTION TO
PROCEED *IN FORMA PAUPERIS* ON
APPEAL

ORDER DENYING WITHOUT PREJUDICE
REQUEST FOR APPOINTMENT OF
COUNSEL ON APPEAL

(ECF Nos. 53, 54)

17 Petitioner is a state prisoner who proceeded pro se with a petition for writ of habeas
18 corpus pursuant to 28 U.S.C. § 2254. On February 24, 2017, the Court adopted the Magistrate
19 Judge's findings and recommendation and denied the petition. (ECF No. 46).

20 On April 17, 2017, Petitioner filed a motion to proceed *in forma pauperis* on appeal.
21 (ECF No. 53). The Court previously permitted Petitioner to proceed *in forma pauperis* in this
22 action. (ECF No. 4). Therefore, Petitioner does not require further authorization to appeal *in*
23 *forma pauperis*. Fed. R. App. P. 24(a)(3).

24 On April 17, 2017, Petitioner also filed a request for appointment of counsel on appeal.
25 (ECF No. 54). There currently exists no absolute right to appointment of counsel in habeas
26 proceedings. See, e.g., Chaney v. Lewis, 801 F.2d 1191, 1196 (9th Cir. 1986); Anderson v.
27 Heinze, 258 F.2d 479, 481 (9th Cir. 1958). However, the Criminal Justice Act authorizes the
28 appointment of counsel at any stage of the proceeding for financially eligible persons if “the

1 interests of justice so require.” 18 U.S.C. § 3006A(a)(2)(B). See also Rule 8(c), Rules Governing
2 Section 2254 Cases. In the present case, the Court does not find that the interests of justice
3 require the appointment of counsel at this time. However, Petitioner is not precluded from
4 renewing his request for appointment of counsel in the Ninth Circuit.

5 Accordingly, the Court HEREBY ORDERS that:

- 6 1. Petitioner’s motion to proceed *in forma pauperis* on appeal (ECF No. 53) is DENIED as
7 MOOT; and
- 8 2. Petitioner’s request for appointment of counsel on appeal (ECF No. 54) is DENIED
9 WITHOUT PREJUDICE to its renewal in the Ninth Circuit Court of Appeals.

10 IT IS SO ORDERED.

11 Dated: April 19, 2017

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14 UNITED STATES MAGISTRATE JUDGE