

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

WILLIAM GILCHRIST,

Petitioner, No. CIV S-04-0920 FCD KJM P

VS.

A.A. LAMARQUE, Warden,

Respondent. **ORDER**

Petitioner is a state prison inmate proceeding pro se with a petition for a writ of habeas corpus under 28 U.S.C. § 2254. On November 9, 2007, the district judge adopted the findings and recommendations issued August 27, 2007 and entered judgment dismissing the petition for a writ of habeas corpus.

On December 11, 2007, petitioner filed a motion for an extension of time, up to and including January 9, 2008, in which to file the notice of appeal and request for a certificate of appealability. It appears that the request was mailed on December 5, 2007. It is timely. Fed. R. App. 4(a)(5).

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1 On January 9, 2008, petitioner filed a notice of appeal, request for a certificate of
2 appealability, motion for the appointment of counsel and request to proceed in forma pauperis on
3 appeal.

4 Petitioner has requested the appointment of counsel. There currently exists no
5 absolute right to appointment of counsel in habeas proceedings. See Nevius v. Sumner, 105 F.3d
6 453, 460 (9th Cir. 1996). However, 18 U.S.C. § 3006A authorizes the appointment of counsel at
7 any stage of the case “if the interests of justice so require.” See Rule 8(c), Fed. R. Governing
8 § 2254 Cases. In the present case, the court does not find that the interests of justice would be
9 served by the appointment of counsel at the present time.

10 Moreover, petitioner was granted leave to proceed in forma pauperis on June 1,
11 2004; there is no need to renew the request. Fed. R. App. P. 24(a)(3).

12 Accordingly, IT IS HEREBY ORDERED that:

13 1. Petitioner’s request for an extension of time to file his notice of appeal (docket
14 no. 32) is granted nunc pro tunc and the notice filed January 9, 2008 is timely;

15 2. Petitioner’s motion for the appointment of counsel (docket no. 34) is denied;
16 and

17 3. Petitioner’s request to proceed in forma pauperis (docket no. 33) is denied as
18 unnecessary.

19 DATED: January 31, 2008.



20 _____
21 U.S. MAGISTRATE JUDGE

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