

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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

MICHAEL AARON JAYNE,

Petitioner,

No. CIV S-06-0823 DFL DAD P

vs.

DIRECTOR, California Dep't
of Corr. and Rehab., et al.,

Respondents.

ORDER

Petitioner, a state prisoner proceeding pro se, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, together with an application to proceed in forma pauperis.

Examination of the in forma pauperis application reveals that petitioner is unable to afford the costs of suit. Accordingly, the application to proceed in forma pauperis will be granted. See 28 U.S.C. § 1915(a).

Since petitioner may be entitled to relief if the claimed violation of constitutional rights is proved, respondents will be directed to file a response to petitioner's habeas petition.

Petitioner has filed a motion for the appointment of counsel. There currently exists no absolute right to appointment of counsel in habeas proceedings. See Nevius v. Sumner, 105 F.3d 453, 460 (9th Cir. 1996). However, 18 U.S.C. § 3006A authorizes the appointment of

1 counsel at any stage of the case “if the interests of justice so require.” See Rule 8©, Fed. R.
2 Governing § 2254 Cases. In the present case, the court does not find that the interests of justice
3 would be served by the appointment of counsel at the present time.

4 In accordance with the above, IT IS HEREBY ORDERED that:

5 1. Petitioner’s application to proceed in forma pauperis is granted;

6 2. Respondents are directed to file a response to petitioner’s habeas petition
7 within thirty days from the date of this order. See Rule 4, Fed. R. Governing § 2254 Cases. An
8 answer shall be accompanied by all transcripts and other documents relevant to the issues
9 presented in the petition. See Rule 5, Fed. R. Governing § 2254 Cases;

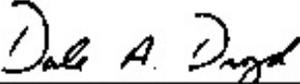
10 3. If the response to the habeas petition is an answer, petitioner’s reply, if any,
11 shall be filed and served within thirty days after service of the answer;

12 4. If the response to the habeas petition is a motion, petitioner’s opposition or
13 statement of non-opposition to the motion shall be filed and served within thirty days after
14 service of the motion, and respondents’ reply, if any, shall be filed and served within fifteen days
15 thereafter; and

16 5. The Clerk of the Court shall serve a copy of this order together with a copy of
17 the petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 on Jo Graves, Senior
18 Assistant Attorney General.

19 6. Petitioner’s April 18, 2006 motion for the appointment of counsel is denied
20 without prejudice.

21 DATED: April 21, 2006.

22
23 
24 _____
25 DALE A. DROZD
26 UNITED STATES MAGISTRATE JUDGE

DAD:dk
jayne823.100+