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

JERRY D. STIPE,

Petitioner,

No. CIV S-06-1006 GEB PAN P

vs.

CALIFORNIA STATE GOVERNOR
SCHWARTZENEGGER, et al.,

Respondents.

ORDER

_____/

Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner has paid the filing fee.

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

In addition, petitioner has requested 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 counsel at any stage of the case “if the interests of justice so require.” See Rule 8(c), Fed. R. Governing § 2254 Cases. In the present case, the court does not find that the interests of justice would be served by the appointment of counsel at the present time.

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

2 1. Respondents are directed to file an answer within forty-five days from the date
3 of this order. See Rule 4, Rules Governing Section 2254 Cases. Respondents shall include with
4 the answer any and all transcripts or other documents relevant to the determination of the issues
5 presented in the application. Rule 5, Rules Governing Section 2254 Cases;

6 2. Petitioner's traverse, if any, is due on or before thirty days from the date
7 respondents' answer is filed;

8 3. The Clerk of the Court shall serve a copy of this order together with a copy of
9 petitioner's application for writ of habeas corpus on Jo Graves, Senior Assistant Attorney
10 General; and

11 4. Petitioner's May 8, 2006 motion for appointment of counsel is denied without
12 prejudice to a renewal of the motion at a later stage of the proceedings.

13 DATED: May 16, 2006.

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16 UNITED STATES MAGISTRATE JUDGE

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