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

10 STEVEN EDWARD RATHBUN,
11 Petitioner,

Case No. CIV S-06-1311 VAP

12 v.

[Motion filed on October 9,
2007]

13 K. PROPSE, Warden,
14 Respondent.
15 _____/

ORDER (1) GRANTING 25-DAY
EXTENSION OF TIME TO FILE
TRAVERSE and (2) DENYING
MOTION FOR APPOINTMENT OF
COUNSEL

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17 Petitioner is a state prisoner proceeding pro se in a
18 habeas corpus action pursuant to 28 U.S.C. § 2254. The
19 Petition was filed on June 29, 2006. Respondent filed an
20 Answer on October 11, 2006. On October 9, 2007,
21 Petitioner filed a motion seeking leave to file an
22 untimely traverse. On January 5, 2009, the action was
23 transferred to this Court pursuant to an Order of
24 Designation of Judge to Serve in Another District Within
25 the Ninth Circuit. The Court discovered that
26 Petitioner's motion to file an untimely traverse had
27 never been ruled upon, and granted the motion on December
28 1, 2009, allowing Petitioner to file a traverse within 30
days of that Order. (Dkt. No. 24.)

1 On December 14, 2009, Petitioner filed a Motion to
2 Appoint Counsel, in which he argued he was never
3 properly served with a copy of Respondent's answer to his
4 petition. The Court denied the motion on December 18,
5 2009, but ordered Respondent to serve Petitioner with a
6 copy of its answer within 7 days, and allowed Petitioner
7 an additional 30 days from the date of service to file
8 his traverse. (Dkt. No. 26.)

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10 On December 23, 2009, Petitioner filed a Motion for
11 Extension of Time to File Traverse to Respondent's Answer
12 and to Compel the Appointment of Counsel. (Dkt. No. 28.)
13 He then filed a second motion seeking a 60-day extension
14 of time to file his traverse on January 6, 2010. (Dkt.
15 No. 29.) Petitioner contends that his limited access to
16 the prison law library makes it difficult to for him to
17 respond to the Answer by January 27, 2010.

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19 Petitioner's traverse in this matter was initially
20 due on November 20, 2006, over three years ago. (Dkt.
21 No. 8.) The Court has already granted several requests
22 to extend the time allowed, and ensure Petitioner has the
23 appropriate filings necessary to complete his traverse.
24 The Court will grant one final twenty-five (25) day
25 extension. No further requests for an extension of time
26 to file the untimely traverse will be entertained.
27 Petitioner may file a traverse no later than February 21,

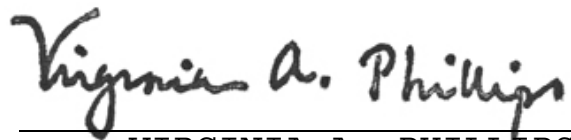
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1 2010. On that date, the Petition will stand fully
2 briefed and be taken under submission.

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4 As stated in this Court's prior rulings, the Court
5 does not find that the interests of justice would be
6 served by the appointment of counsel. See 18 U.S.C. §
7 3006A. Therefore, Petitioner's motion for the
8 appointment of counsel is DENIED.

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10 IT IS SO ORDERED.

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13 Dated: January 8, 2010



VIRGINIA A. PHILLIPS
United States District Judge