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

JUAN C. MONTOYA,

Petitioner,

No. CIV S-06-2082 FCD CMK P

vs.

LEE WONG, Warden, 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, together with a request to proceed in forma pauperis.

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

Since petitioner may be entitled to the requested relief if the claimed violation of constitutional rights is proved, respondents will be directed to file an answer.

Petitioner has filed a request for appointment of counsel. In light of the complexity of the legal issues involved, the court has determined that the interests of justice require appointment of counsel. See 18 U.S.C. § 3006A(a)(2)(B); see also Weygandt v. Look,

1 718 F.2d 952, 954 (9th Cir. 1983).

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

3 1. Petitioner's request to proceed in forma pauperis is granted;

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

8 3. Petitioner's traverse, if any, is due on or before thirty days from the date
9 respondents' answer is filed;

10 4. The Clerk of the Court shall serve a copy of this order together with a copy of
11 petitioner's application for writ of habeas corpus on Michael Patrick Farrel, Senior Assistant
12 Attorney General;

13 6. The Federal Defender is appointed to represent petitioner;

14 7. The Clerk of the Court is directed to serve a copy of petitioner's habeas corpus
15 application and a copy of this order on David M. Porter, Assistant Federal Defender;

16 8. Petitioner's counsel shall contact the Clerk's Office to make arrangements for
17 copies of other documents in the file;

18 9. A status conference is set for December 12, 2006, at 10:00 a.m. before the
19 undersigned at the United States District Court 2986 Bechelli Lane, Redding California;

20 10. All parties shall appear at the status conference by counsel; however, due to
21 the court's location in Redding, the court will allow telephonic appearances;

22 11. Fourteen days prior to the conference, the parties shall file and serve status
23 reports which address the timing and order of the following matters:

24 a. Discovery and investigations;

25 b. Anticipated motions;

26 c. The need for and timing of an evidentiary hearing;

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- d. Enumeration and resolution of unexhausted claims; and
- e. Possible future amendments to the pleadings;

The parties are advised that failure to timely file a status report may result in sanctions.

DATED: September 27, 2006.



CRAIG M. KELLISON
 UNITED STATES MAGISTRATE JUDGE