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

Michael F De Vries, 2:07-CV-01926-ATG  
Petitioner, ORDER  
vs.  
Board of Prison Hearings,  
Respondent.

\_\_\_\_\_ /

Petitioner Michael F. De Vries is a California prisoner proceeding pro se with an application for writ of habeas corpus pursuant to 28 U.S.C. § 2254. 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*, 718 F.2d 952, 954 (9th Cir. 1983).

In light of *Hayward v. Marshall*, No. 06-55392, \_\_\_ F.3d \_\_\_, 2010 U.S. App. LEXIS 8411 (9th Cir. Cal. Apr. 22, 2010), the law of the Ninth Circuit is that California law creates an expectation of the possibility of parole under certain circumstances. The question now before the Court is whether federal due process gives a prisoner the right to have his parole determined in accordance with California law, particularly California's law regarding immutable factors (*see, e.g., In re Lawrence*, 190 P.3d 535 (Cal. 2008); *see also Irons v. Carey*, 505 F.3d 846 (9th

1 Cir. 2007)), and if so, whether that right is clearly established federal law as determined by the  
2 Supreme Court of the United States within the meaning of 28 U.S.C. § 2254(d).

3 Accordingly, IT IS HEREBY ORDERED that:

4 1. The Federal Defender is appointed to represent petitioner.

5 2. The Clerk of the Court is directed to serve a copy of the petition and this  
6 order on David Porter, Assistant Federal Defender.

7 3. Petitioner's counsel shall contact the Clerk's Office to make arrangements for  
8 copies of documents in the file.

9 6. Petitioner's counsel shall file an opening brief within thirty-five (35) days  
10 hereof.

11 7. Respondent shall file an answer within twenty-one (21) days after  
12 Petitioner's counsel files an opening brief.

13 8. Petitioner's counsel shall file a traverse within seven (7) days after  
14 Respondent files an answer.

15 9. Argument on this matter shall be heard on Tuesday, August 17, 2010 in  
16 courtroom three of the Robert T. Matsui United States Courthouse, 501 I Street, Sacramento,  
17 California.

18 DATED: May 20, 2010.

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21 /s/ Alfred T. Goodwin

22 ALFRED T. GOODWIN  
23 United States Circuit Judge  
24 Sitting by designation  
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