

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

GLENN W. GARY,

Petitioner,

No. 2: 08-cv-0946 GEB KJN P

vs.

M.C. KRAMER, et al.,

Respondents.

ORDER

\_\_\_\_\_ /

On July 8, 2008, respondents were ordered to file a response to the petition within sixty days. On September 5, 2008, respondents filed a request to stay this action pending issuance of the mandate in Hayward v. Marshall, 527 F.3d 797 (9th Cir. 2008). The mandate has been issued in Hayward. Accordingly, respondents shall file a response to the petition.

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                   Accordingly, IT IS HEREBY ORDERED that:

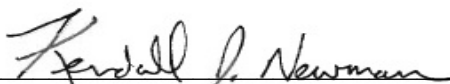
2                   1. Petitioner's August 4, 2010 motion for appointment of counsel (Dkt. No. 11) is  
3 denied without prejudice to a renewal of the motion at a later stage of the proceedings;

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

8                   3. If the response to the habeas petition is an answer, petitioner's reply, if any,  
9 shall be filed and served within twenty-eight days after service of the answer;

10                  4. If the response to the habeas petition is a motion, petitioner's opposition or  
11 statement of non-opposition to the motion shall be filed and served within twenty-eight days after  
12 service of the motion, and respondents' reply, if any, shall be filed and served within fourteen  
13 days thereafter.

14 DATED: August 11, 2010

15  
16  
17  
18   
KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE

19 gary946.100