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

11 LEVERETT GRISSOM,

12 Petitioner,

No. CIV S-09-0040 JAM KJM P

13 vs.

14 MIKE KNOWLES,

15 Respondent.

ORDER

16 \_\_\_\_\_/  
17 Petitioner is a prisoner proceeding pro se with an application for writ of habeas  
18 corpus under 28 U.S.C. § 2254. Petitioner has filed several motions: (1) a motion to stay and  
19 hold this action in abeyance; (2) a motion for an extension of time in which to respond to the  
20 respondent's motion to dismiss; and (3) two motions to appoint counsel.

21 In moving for a stay, petitioner states that he has "a new and unexhausted claim in  
22 the Superior Court[,] which claim is related to the same issue [original petition]." Mot. at 1  
23 (Docket No. 20). If petitioner exhausts a related claim at some time in the future, and if that  
24 claim is denied at every stage of the state habeas proceedings, then petitioner may move the  
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1 court for leave to amend to add that claim.<sup>1</sup> However, there is no ground for holding the current  
2 petition in abeyance while the “new” claim moves through the state habeas process.

3 Meanwhile, petitioner has also asked for additional time in which to respond to  
4 the motion to dismiss. Respondent does not allege that the present claims are unexhausted;  
5 rather, he has moved to dismiss the petition on the bases that it is untimely and does not state a  
6 claim that warrants federal relief. Good cause appearing, the motion for an extension of time  
7 will be granted.

8 Finally, petitioner has twice moved for the appointment of counsel. There  
9 currently exists no absolute right to appointment of counsel in habeas proceedings. See Nevius  
10 v. Sumner, 105 F.3d 453, 460 (9th Cir. 1996). However, 18 U.S.C. § 3006A authorizes the  
11 appointment of counsel at any stage of the case “if the interests of justice so require.” See Rule  
12 8(c), Fed. R. Governing § 2254 Cases. In this case, the court does not find that the interests of  
13 justice would be served by the appointment of counsel at the present time. Therefore the  
14 motions for appointment of counsel will be denied without prejudice.

15 Accordingly, IT IS HEREBY ORDERED that:

16 1. The motion to stay (Docket No. 20) is denied;

17 2. The motions for appointment of counsel (Docket Nos. 21 and 23) are denied;

18 and

19 3. The motion for an extension of time (Docket No. 22) is granted. Petitioner  
20 has thirty days from the entry of this order in which to file a response to the motion to dismiss.

21 DATED: January 6, 2010.

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26 U.S. MAGISTRATE JUDGE

25 <sup>1</sup> Petitioner does not describe his “new” claim or how it is “related” to the issues already  
26 alleged in the instant petition. In noting the possibility of later amending the petition, the court  
states no opinion on whether it would grant or deny a motion to add this undefined, “new” claim.