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

HERVERD GUTIERREZ,

Petitioner,

No. CIV S-09-0329 GEB EFB P

vs.

D.K. SISTO, et al.,

Respondents.

ORDER

\_\_\_\_\_ /  
Petitioner is a state prisoner without counsel seeking a writ of habeas corpus. *See* 28 U.S.C. § 2254. He has requested that the court appoint counsel. He has also requested that the court deem his December 1, 2009 traverse to be timely filed. *See* Fed. R. Civ. P. 6(b).

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). The court may appointment counsel at any stage of the proceedings “if the interests of justice so require.” *See* 18 U.S.C. § 3006A; *see also*, Rule 8(c), Rules Governing Section 2254 Cases. The court does not find that the interests of justice would be served by the appointment of counsel at this stage of the proceedings.

Accordingly, it hereby is ORDERED that petitioner’s December 1, 2009 motion for appointment of counsel is denied without prejudice and, good cause appearing, petitioner’s December 1, 2009 traverse is deemed timely filed.

DATED: December 4, 2009.

  
EDMUND F. BRENNAN  
UNITED STATES MAGISTRATE JUDGE