

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

JOHN ROBB,

Petitioner, No. 2:09-cv-0402 JFM (HC)

VS.

D.K. SISTO, Warden,

Respondent. ORDER

Petitioner is a state prisoner proceeding pro se with an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. This action was filed on February 11, 2009. Two days after the petition was filed, the filing fee of \$5.00 was paid for this action. On March 24, 2009, petitioner filed an application to proceed in forma pauperis and a motion for appointment of counsel.

Examination of the in forma pauperis affidavit reveals that petitioner is unable to afford any additional costs that may be associated with this action. Accordingly, the request for leave to proceed in forma pauperis will be granted. See 28 U.S.C. § 1915(a).

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

1 so require." See Rule 8(c), Fed. R. Governing § 2254 Cases. In the present case, the court does  
2 not find that the interests of justice would be served by the appointment of counsel at the present  
3 time. Accordingly, petitioner's motion for appointment of counsel will be denied without  
4 prejudice.

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

6 1. Petitioner's March 24, 2009 application to proceed in forma pauperis is  
7 granted; and

8 2. Petitioner's March 24, 2009 motion for appointment of counsel is denied  
9 without prejudice.

10 DATED: April 1, 2009.

11   
12 John F. Marshall  
13 UNITED STATES MAGISTRATE JUDGE

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