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

ALLIE JAMES BELL,

Petitioner,

No. CIV S-09-0515 KJM P

vs.

LARRY SMALL, Warden,

Respondent.

ORDER

_____/

Petitioner, a state prisoner proceeding pro se, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, together with an application to proceed in forma pauperis and a request for the appointment of counsel.

Examination of the in forma pauperis application reveals that petitioner is unable to afford the costs of suit. Accordingly, the application 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 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 Since petitioner may be entitled to relief if the claimed violation of constitutional
2 rights is proved, respondent will be directed to file a response to petitioner's habeas petition.

3 Accordingly, IT IS HEREBY ORDERED that:

4 1. Petitioner's application to proceed in forma pauperis is granted;

5 2. Petitioner's request for appointment of counsel (Docket No. 2) is denied
6 without prejudice to a renewal of the motion at a later stage of the proceedings;

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

11 4. If the response to the habeas petition is an answer, petitioner's reply, if any,
12 shall be filed and served within thirty days after service of the answer;

13 5. If the response to the habeas petition is a motion, petitioner's opposition or
14 statement of non-opposition to the motion shall be filed and served within thirty days after
15 service of the motion, and respondent's reply, if any, shall be filed and served within fifteen days
16 thereafter; and

17 6. The Clerk of the Court shall serve a copy of this order together with a copy of
18 the petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 on Michael Patrick Farrell,
19 Senior Assistant Attorney General.

20 DATED: April 20, 2009.

21 
22 _____
23 U.S. MAGISTRATE JUDGE

23 1/mp;
24 bell0515.00(2.23.09)

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