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

JOHN ALAN PARVIN,

Petitioner,

No. 2:09-2198-JFM (HC)

vs.

MATTHEW CATE, et al.,

Respondents.

ORDER

\_\_\_\_\_ /

Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, together with a request 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 the costs of suit. Accordingly, the request for leave to proceed in forma pauperis is granted. See 28 U.S.C. § 1915(a).

Since petitioner may be entitled to the requested relief if the claimed violation of constitutional rights is proved, respondents will be directed to file an answer to the petition.

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. According, 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 request to proceed in forma pauperis is granted;

7 2. Respondents are directed to file an answer within forty-five days from the date  
8 of this order. See Rule 4, Rules Governing Section 2254 Cases. Respondents shall include with  
9 the answer any and all transcripts or other documents relevant to the determination of the issues  
10 presented in the application. Rule 5, Rules Governing Section 2254 Cases;

11 3. Petitioner’s traverse, if any, is due on or before thirty days from the date  
12 respondents’ answer is filed;

13 4. Petitioner’s August 31, 2009 motion to appoint counsel is denied without  
14 prejudice; and

15 5. The Clerk of the Court shall serve a copy of this order together with a copy of  
16 petitioner’s application for writ of habeas corpus and an Order Re Consent or Request for  
17 Reassignment on Michael Patrick Farrell, Senior Assistant Attorney General.

18 DATED: September 8, 2009.

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21 UNITED STATES MAGISTRATE JUDGE

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