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

KEVIN MICHAEL FISK,

Petitioner,

No. CIV S-09-2203 KJM P

vs.

STATE OF CALIFORNIA,

Respondent.

ORDER

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Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner has paid the filing fee.

Since petitioner may be entitled to the requested relief if the claimed violation of constitutional rights is proved, respondent will be directed to file a response to petitioner’s application.

Petitioner has also filed a request for the appointment of counsel. 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 In accordance with the above, IT IS HEREBY ORDERED that:

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

6 2. Petitioner's reply, if any, shall be filed and served within thirty days of service  
7 of an answer;

8 3. If the response to petitioner's application is a motion, petitioner's opposition  
9 or statement of non-opposition shall be filed and served within thirty days of service of the  
10 motion, and respondent's reply, if any, shall be filed within fourteen days thereafter; and

11 4. The Clerk of the Court shall serve a copy of this order together with a copy of  
12 petitioner's application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 (#8) and the  
13 consent/reassignment form contemplated by Appendix A(k) to the Local Rules of this court on  
14 Michael Patrick Farrell, Senior Assistant Attorney General.

15 5. Petitioner's motion for the appointment of counsel (docket no. 2) is denied.

16 DATED: February 9, 2010.

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U.S. MAGISTRATE JUDGE

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