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

MICHAEL E. SCHINKEL,

Petitioner,

No. CIV S-09-2247 DAD P

vs.

BOARD OF PAROLE HEARINGS,

Respondent.

ORDER

_____ /

Petitioner is a state prisoner proceeding pro se. In accordance with the court’s October 9, 2009 order, petitioner has filed a second amended petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

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

Petitioner has also filed a motion for 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 October 21, 2009
3 second amended habeas petition within sixty days from the date of this order. See Rule 4, Fed.
4 R. Governing § 2254 Cases. An answer shall be accompanied by all transcripts and other
5 documents relevant to the issues presented in the petition. See Rule 5, Fed. R. Governing § 2254
6 Cases;

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

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

13 4. The Clerk of the Court shall serve a copy of this order, a copy of the October
14 21, 2009 second amended habeas petition, and a copy of the form regarding consent or request
15 for reassignment on Michael Patrick Farrell, Senior Assistant Attorney General; and

16 5. Petitioner's October 21, 2009 motion for appointment of counsel (Doc. No. 10)
17 is denied.

18 DATED: October 26, 2009.

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21 _____
DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

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