

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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

ANTHONY BROUSSARD,

Petitioner,

Civ. No. S-09-3242 KJM P

vs.

MIKE EVANS, 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.

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).

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

Petitioner has requested 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

1 any stage of the case “if the interests of justice so require.” See Rule 8(c), Fed. R. Governing
2 § 2254 Cases. In the present case, the court does not find that the interests of justice would be
3 served by the appointment of counsel at the present time.

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

- 5 1. Petitioner’s application to proceed in forma pauperis (docket no. 2) is granted;
- 6 2. Respondents are directed to file a response to petitioner’s habeas petition
7 within sixty days from the date of this order. See Rule 4, Fed. R. Governing § 2254 Cases. An
8 answer shall be accompanied by all transcripts and other documents relevant to the issues
9 presented in the petition. See Rule 5, Fed. R. Governing § 2254 Cases. Because this petition
10 challenges a denial of parole, the relevant documents should include the transcript of the parole
11 hearing and any documents, reports or letters considered by the panel;
- 12 3. If the response to the habeas petition is an answer, petitioner’s reply, if any,
13 shall be filed and served within thirty days after service of the answer;
- 14 4. If the response to the habeas petition is a motion, petitioner’s opposition or
15 statement of non-opposition to the motion shall be filed and served within thirty days after
16 service of the motion, and respondents’ reply, if any, shall be filed and served within fourteen
17 days thereafter;
- 18 5. The Clerk of the Court shall serve a copy of this order, the
19 consent/reassignment form contemplated by Appendix A(k) to the Local Rules of this court, and
20 a copy of the petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 on Jennifer Neill,
21 Senior Assistant Attorney General; and
- 22 6. Petitioner’s motion for the appointment of counsel (docket no. 3) is denied.

23 DATED: April 27, 2010.

24
25 ²
brou3242.100


U.S. MAGISTRATE JUDGE