

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

HAROLD L. ARMSTRONG,

Petitioner,

No. CIV S-10-1609 GEB EFB F

VS.

M. D. MCDONALD,

Respondent.

ORDER

Petitioner is a state prisoner without counsel seeking a writ of habeas corpus. *See* 28 U.S.C. § 2254. A petitioner seeking a writ of habeas corpus either must pay the \$5.00 filing fee, U.S.C. § 1914(a), or request leave of court to proceed *in forma pauperis*, 28 U.S.C. § 1915(a). Petitioner filed a request to proceed in forma pauperis, but he did not file it on the date set by this district. Accordingly, petitioner will be provided the opportunity to submit the application on the appropriate form.

21 Petitioner has also requested that the court appoint counsel. There currently exists no
22 absolute right to appointment of counsel in habeas proceedings. *See Nevius v. Sumner*, 105 F.3d
23 453, 460 (9th Cir. 1996). The court may appointment counsel at any stage of the proceedings “if
24 the interests of justice so require.” *See* 18 U.S.C. § 3006A; *see also*, Rule 8(c), Rules Governing
25 Section 2254 Cases. The court does not find that the interests of justice would be served by the
26 appointment of counsel at this stage of the proceedings.

1 Accordingly, it hereby is ORDERED that:

2 1. Petitioner's June 24, 2010, request for appointment of counsel is denied without
3 prejudice; and
4 2. Within 30 days from the day this order is served, petitioner may submit either the
5 filing fee or the application required by section 1915(a). Petitioner's failure to comply with this
6 order will result in a recommendation that this action be dismissed. The Clerk of the Court is
7 directed to mail to petitioner a form application for leave to proceed *in forma pauperis*.

8 DATED: July 14, 2010.

9 
10 EDMUND F. BRENNAN
11 UNITED STATES MAGISTRATE JUDGE