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

ROGER SCHNEIDER,

Petitioner,

No. 2:10-cv-1869 GEB KJN P

vs.

GARY SWARTHOUT, Warden,

Respondent.

ORDER

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Petitioner is a state prisoner proceeding without counsel and in forma pauperis in this habeas corpus action filed July 16, 2010, pursuant to 28 U.S.C. § 2254, challenging the 2005 decision of the Board of Parole Hearings denying petitioner parole. Petitioner seeks a stay of this action because he has been transferred to another institution and is no longer in the same prison as the inmate who assisted petitioner in filing this action. Petitioner also seeks appointment of counsel. (Dkt. Nos. 12, 14.)

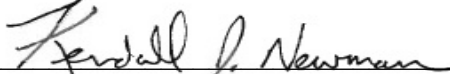
Petitioner fails to demonstrate good cause for staying this action. Respondent is in the process of filing a response, and petitioner, on his own, may file a reply (traverse) to the response, addressing any matters already briefed by petitioner or respondent which petitioner believes require the extra attention of the court.

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1 Nor does petitioner demonstrate the necessity of appointment of counsel. There  
2 currently exists no absolute right to appointment of counsel in habeas proceedings. See Nevius  
3 v. Sumner, 105 F.3d 453, 460 (9th Cir. 1996). However, 18 U.S.C. § 3006A authorizes the  
4 appointment of counsel at any stage of the case “if the interests of justice so require.” See Rule  
5 8(c), Fed. R. Governing § 2254 Cases. “Indigent state prisoners applying for habeas corpus relief  
6 are not entitled to appointed counsel unless the circumstances of a particular case indicate that  
7 appointed counsel is necessary to prevent due process violations.” Chaney v. Lewis, 801 F.2d  
8 1191, 1196 (9th Cir. 1986) (citations omitted). In the present case, the court finds that neither the  
9 interests of justice nor independent due process considerations require the appointment of  
10 counsel at the present time. .

11 Accordingly, IT IS HEREBY ORDERED that petitioner’s requests to stay this  
12 action and for appointment of counsel (Dkt. Nos. 12, 14) are denied without prejudice.

13 DATED: November 9, 2010

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KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE

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