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

CLARENCE B. HICKMAN, SR.,

No. CIV S-10-2925-GEB-CMK-P

Petitioner,

vs.

ORDER

COUNTY OF BUTTE,

Respondent.

_____ /

Petitioner, a state prisoner proceeding pro se, brings this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On November 10, 2010, the court directed petitioner to file an amended petition within 30 days. As of December 17, 2010, no amended petition had been filed and the court issued findings and recommendations that this action be dismissed for lack of prosecution and failure to comply with court rules and orders. Petitioner then filed an amended petition on January 3, 2011. Good cause appearing therefor, the December 17, 2010, findings and recommendations will be vacated.

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1 At the same time petitioner filed his amended petition, he also filed a motion for
2 appointment of counsel (Doc. 18). There currently exists no absolute right to appointment of
3 counsel in habeas proceedings. See Nevius v. Sumner, 105 F.3d 453, 460 (9th Cir. 1996).
4 However, 18 U.S.C. § 3006A authorizes the appointment of counsel at any stage of the case “if
5 the interests of justice so require.” See Rule 8(c), Fed. R. Governing § 2254 Cases. In the
6 present case, the court does not find that the interests of justice would be served by the
7 appointment of counsel at the present time.

8 Accordingly, IT IS HEREBY ORDERED that:

9 1. The findings and recommendations issued on December 17, 2010, are
10 vacated; and

11 2. Petitioner’s motion for appointment of counsel (Doc. 18) is denied without
12 prejudice to renewal, at the earliest, after an answer to the petition has been filed.

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14 DATED: January 7, 2011

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17 **CRAIG M. KELLISON**
18 UNITED STATES MAGISTRATE JUDGE
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