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

VICTOR LOPEZ,

Petitioner,

No. 2:10-cv-3168 KJN P

vs.

S.M. SALINAS, Warden,

Respondent.

ORDER

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Petitioner, a state prisoner proceeding without counsel, has filed an amended petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 (Dkt. No. 7), in response to this court’s order filed December 1, 2010 (Dkt. No. 4).

The amended petition for writ of habeas corpus challenges a 2009 decision of the Board of Parole Hearings denying petitioner parole. Because 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 amended habeas petition.

In addition, petitioner has sent the court a check for the \$5.00 filing fee, although petitioner’s application to proceed in forma pauperis was previously granted. (Dkt. No. 4.) Petitioner’s check will be returned.

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1                   Finally, petitioner moves for appointment of counsel, based on his limited finances  
2 and the complexity of the legal process. (Dkt. No. 6.) There is no absolute right to appointment  
3 of counsel in habeas proceedings. See Nevius v. Sumner, 105 F.3d 453, 460 (9th Cir. 1996).  
4 While United States Code, title 18, section 3006A, authorizes the appointment of counsel at any  
5 stage of a habeas proceeding “if the interests of justice so require,” see Rule 8(c), Federal Rules  
6 Governing § 2254 Cases, the court finds, at this time, that petitioner’s case does not present  
7 extraordinary circumstance requiring appointment of counsel in the interests of justice.

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

9                   1. The Clerk of Court is directed to return to petitioner his \$5.00 check submitted  
10 with his amended petition;

11                   2. Petitioner’s motion for appointment of counsel (Dkt. No. 6) is denied without  
12 prejudice;

13                   3. Respondent is directed to file and serve a response to petitioner’s amended  
14 habeas petition (Dkt. No. 7) within sixty days from the date of this order. See Rule 4, Fed. R.  
15 Governing § 2254 Cases. An answer shall be accompanied by all transcripts and other documents  
16 relevant to the issues presented in the petition. See Rule 5, Fed. R. Governing § 2254 Cases;

17                   4. If the response to the amended habeas petition is an answer, petitioner’s reply, if  
18 any, shall be filed and served within twenty-eight days after service of the answer;

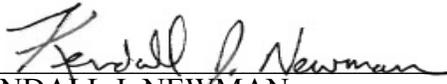
19                   5. If the response to the amended habeas petition is a motion, petitioner’s  
20 opposition or statement of non-opposition to the motion shall be filed and served within twenty-  
21 eight days after service of the motion, and respondent’s reply, if any, shall be filed and served  
22 within fourteen days thereafter; and

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6. The Clerk of the Court shall serve a copy of this order, the consent/  
reassignment form contemplated by Appendix A(k) to the Local Rules of this court, and a copy of  
the amended petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 (Dkt. No. 7) on  
Michael Patrick Farrell, Senior Assistant Attorney General.

DATED: December 14, 2010

  
KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE

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