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

MICHAEL EUGENE KINCADE,

No. CIV S-11-0788-CMK-P

Petitioner,

vs.

ORDER

KATHLEEN ALLISON,

Respondent.

\_\_\_\_\_ /

Petitioner, a state prisoner proceeding pro se, brings this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Pending before the court is petitioner’s request for leave to proceed in forma pauperis (Doc. 7). Petitioner’s petition will be addressed separately.

Petitioner has submitted the affidavit required by 28 U.S.C. § 1915(a) showing that petitioner is unable to prepay fees and costs or give security therefor.

Petitioner also seeks the appointment of counsel (Doc. 2). 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 any stage of the case “if the interests of justice so require.” See Rule 8(c), Fed. R. Governing § 2254 Cases. In the present case, the court does not find that the interests of justice

1 would be served by the appointment of counsel at the present time.

2 Accordingly, IT IS HEREBY ORDERED that:

3 1. Petitioner's motion for leave to proceed in forma pauperis (Doc. 7) is  
4 granted; and

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

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9 DATED: May 4, 2011

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11 **CRAIG M. KELLISON**  
12 UNITED STATES MAGISTRATE JUDGE  
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