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

ALEXANDER LEES,

Petitioner,

No. CIV S-11-1422 DAD P

vs.

A. HEDGEPEETH, Warden,

Respondent.

ORDER

\_\_\_\_\_ /

Petitioner, a state prisoner proceeding pro se, filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On June 9, 2011, the court ordered petitioner to submit the filing fee or to file an in forma pauperis application. Court records indicate that petitioner has paid the filing fee.

In the order referred to above the court also dismissed petitioner’s habeas petition and granted petitioner leave to file an amended petition to clarify the nature of his habeas claims and to provide this court with further information regarding his post-conviction appeals and actions. The court also advised petitioner that he was required to exhaust each of his habeas claims in state court. Petitioner has now filed a request for the appointment of counsel and a one-page document styled, “Amended Petition,” which merely informs the court that petitioner

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1 has obtained further information about his appeal from his underlying conviction filed with the  
2 California Supreme Court.

3           Petitioner's request for the appointment of counsel will be denied. There  
4 currently exists no absolute right to appointment of counsel in habeas proceedings. See Nevius  
5 v. Sumner, 105 F.3d 453, 460 (9th Cir. 1996). However, 18 U.S.C. § 3006A authorizes the  
6 appointment of counsel at any stage of the case "if the interests of justice so require." See Rule  
7 8(c), Fed. R. Governing § 2254 Cases. In the present case, the court does not find that the  
8 interests of justice would be served by the appointment of counsel at the present time.

9           The court will, however, grant petitioner additional time to file a second amended  
10 petition. Petitioner is advised to refer to the court's June 9, 2011 order and to answer each  
11 question posed in the court's form federal habeas petition.

12           Accordingly, IT IS HEREBY ORDERED that:

13           1. Petitioner's June 24, 2011 motion for appointment of counsel (Doc. No. 5) is  
14 denied;

15           2. Petitioner is granted thirty days from the date of service of this order to file a  
16 second amended petition that complies with the requirements of the Federal Rules of Civil  
17 Procedure; the second amended petition must bear the docket number assigned this case and  
18 must be labeled "Second Amended Petition;" petitioner must use the form petition provided by  
19 the Clerk of the Court and answer each question in the form petition;

20           3. The Clerk of the Court is directed to send petitioner the form petition for a writ  
21 of habeas corpus by a state prisoner; and

22           4. Petitioner's failure to comply with this order will result in the dismissal of this  
23 action.

24 DATED: July 22, 2011.

25 DAD:4  
26 lecs1422.lta2

  
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DALE A. DROZD  
UNITED STATES MAGISTRATE JUDGE