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

CARMEL MURPHY, No. CIV S-11-1523-JAM-CMK-P

Petitioner,

vs. ORDER

WALTER MILLER,

Respondent.

Petitioner, a state prisoner proceeding pro se, brings this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

In response to the court's October 18, 2011, order directing petitioner to resolve the fee status for this case, petitioner submitted a certified copy of her prison trust account statement. Petitioner has not, however, submitted an accompanying application to proceed in forma pauperis. A signed application must be on file before the court can consider whether to grant in forma pauperis status. Petitioner will be provided an opportunity to submit a completed application to proceed in forma pauperis. Petitioner will not be required to re-submit her prison trust account statement. Petitioner is cautioned that failure to resolve fees may result in dismissal of the petition. See Local Rule 110.

Petitioner has also filed a motion for appointment of counsel (Doc. 10). 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 would be served by the appointment of counsel at the present time.

## Accordingly, IT IS HEREBY ORDERED that:

- 1. Petitioner's motion for appointment of counsel (Doc. 10) is denied without prejudice to renewal, at the earliest, after a response to the petition has been filed;
- 2. Within 30 days of the date of this order, petitioner shall submit a completed application to proceed in forma pauperis, or pay the filing fee; and
- 3. The Clerk of the Court is directed to send petitioner a new form Application to Proceed In Forma Pauperis By a Prisoner.

DATED: December 1, 2011

CRAIG M. KELLISON

UNITED STATES MAGISTRATE JUDGE