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

JAMUAL BROADBENT,
Petitioner,
vs.
M. MARTEL,
Respondent.

No. CIV S-11-1711-CMK-P

ORDER

_____/

Petitioner, a state prisoner proceeding pro se, brings this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner seeks the appointment of counsel (Doc. 14). 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. The issue currently put before the court by respondent’s motion to dismiss is whether the petition is timely. In his motion for appointment of counsel, petitioner cites a mental illness as the reason counsel should be

1 appointed. Petitioner's mental illness, if established, could be grounds for equitable tolling of
2 the statute of limitations. As petitioner's "jailhouse lawyer" has been able to provide petitioner
3 adequate assistance thus far, the court does not find that the appointment of counsel is warranted
4 at this time. It could be, however, that upon review of petitioner's pro se response to
5 respondent's motion to dismiss, the court reaches a different conclusion regarding appointment
6 of counsel.

7 Accordingly, IT IS HEREBY ORDERED that ruling on petitioner's motion for
8 appointment of counsel (Doc. 14) is deferred until after such time as petitioner files his pro se
9 response to respondent's motion to dismiss, which is due within 30 days of the date of this order.

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11 DATED: October 5, 2011

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13 **CRAIG M. KELLISON**
14 UNITED STATES MAGISTRATE JUDGE
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