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

CHOKCHAI KRONGKEIT,

Petitioner,

No. 2:11-cv-2354 GEB CKD P

vs.

MATTHEW CATE,

Respondent.

ORDER

_____ /

Petitioner has requested an extension of time to file objections to the court’s July 31, 2012 findings and recommendations. Good cause appearing, that request will be granted.

Petitioner has also requested the appointment of counsel. 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.¹

¹ Petitioner also requests that in lieu of counsel, the court appoint an inmate who has been assisting plaintiff as his “next friend.” The court does not appoint a “next friend” to assist a pro se litigant with a case; a “next friend” actually pursues an action on behalf of somebody who is incapable of doing so. Whitmore v. Arkansas, 495 U.S. 149, 163 (1990). In any case, petitioner’s assertion that he comprehends English at about a 4th grade level does not, by itself, suggest that petitioner is not capable of proceeding further in this action, nor does anything else

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Accordingly, IT IS HEREBY ORDERED that:

1. Petitioner's request for an extension of time (Dkt. No. 30) is granted;
2. Petitioner is granted thirty days from the date of this order to file objections to the court's July 31, 2012 findings and recommendations; and
3. Petitioner's request for the appointment of counsel (Dkt. No. 29) is denied.

Dated: November 13, 2012



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

¹
kron2354.111(6)

in the record.