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

DAVID G. LEONARD,
Petitioner,
vs.
JAMES HARTLEY,
Respondent.

No. 2:12-CV-2161-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 leave to proceed in forma pauperis. 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. The request will be granted.

Petitioner seeks 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

1 the appointment of counsel at the present time.

2 The court has examined petitioner’s petition as required by Rule 4 of the Federal
3 Rules Governing Section 2254 Cases. It does not plainly appear from the petition and any
4 attached exhibits that petitioner is not entitled to relief. See id. Respondent(s), therefore, will be
5 directed to file a response to petitioner’s petition. See id. If an answer to the petition is filed,
6 such answer must comply with Rule 5 of the Federal Rules Governing Section 2254 Cases.
7 Specifically, an answer shall be accompanied by any and all transcripts or other documents
8 relevant to the determination of the issue(s) presented in the petition. See id. Failure to file a
9 response within the time permitted by this order may result in the imposition of appropriate
10 sanctions. See Local Rule 110.

11 Accordingly, IT IS HEREBY ORDERED that:

12 1. Petitioner’s motion for leave to proceed in forma pauperis (Doc. 8) is
13 granted;

14 2. Petitioner’s motion for appointment of counsel (Doc. 3) is denied without
15 prejudice to renewal, at the earliest, after a response to the petition has been filed.

16 3. Respondent(s) shall file a response to petitioner’s petition within 60 days
17 from the date of service of this order;

18 4. Concurrent with the response to the petition, respondent(s) shall also file a
19 response to petitioner’s motion for a stay-and-abeyance order (Doc. 2);

20 5. Petitioner’s traverse or reply (if an answer to the petition is filed), if any,
21 or opposition or statement of non-opposition (if a motion in response to the petition is filed) shall
22 be filed and served within 30 days of service of respondent’s response; and

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