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

CHRISTOPHER MORGAN,

Petitioner,

No. 2:12-cv-02269 KJN P

vs.

JAMES RAY et al.,

Respondents.

ORDER

_____ /

Petitioner is a state prisoner proceeding without counsel. By order filed September 17, 2012, this court granted petitioner’s request to proceed in forma pauperis, but dismissed his petition for writ of habeas corpus, filed pursuant to 28 U.S.C. § 2254, with leave to file an amended petition. (Dkt. No. 4.) The court also invited petitioner to request appointment of counsel, because petitioner is serving a sentence of life without the possibility of parole. (Id.) Petitioner now requests appointment of counsel, and requests an extension of time within which to file an amended habeas petition. (Dkt. No. 6.)

Pursuant to his request for appointment of counsel, petitioner emphasizes that he “has no formal law experience nor any knowledge of the law.” (Dkt. No. 6 at 1.) While there is no absolute right to appointment of counsel in habeas proceedings, Nevius v. Sumner, 105 F.3d 453, 460 (9th Cir. 1996), appointment of counsel is authorized for financially eligible prisoners,

1 pursuant to Section 3006A, United States Code, tit. 18, “if the interests of justice so require.” 18
2 U.S.C. § 3006A(a)(2); see also Rule 8(c), Fed. R. Governing § 2254 Cases. In light of
3 petitioner’s sentence, the court finds that the interests of justice require appointment of counsel in
4 this proceeding. See 18 U.S.C. § 3006A(a)(2)(B) (applicable to petitions filed pursuant to 28
5 U.S.C. § 2254); see also Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983).

6 In addition, in order to permit appointed counsel adequate time to review the
7 merits of this action and file an amended petition for writ of habeas corpus, the court will grant
8 petitioner’s request for an extension of time.

9 Accordingly, IT IS HEREBY ORDERED that:

- 10 1. Petitioner’s request for appointment of counsel (Dkt. No. 6), is granted;
- 11 2. The Federal Defender is appointed to represent petitioner;
- 12 3. Petitioner’s request for an extension of time (Dkt. No. 6), within which to file
13 an amended petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, is granted;
- 14 4. Within sixty (60) days after the filing date of this order, petitioner’s counsel
15 shall file, and serve on the proper respondent, either: (1) an amended petition for writ of habeas
16 corpus that contains only exhausted claims; OR (2) an amended petition that identifies both
17 exhausted and unexhausted claims; demonstrates good cause for petitioner’s failure to
18 previously exhaust unexhausted claims, see Rhines v. Weber, 544 U.S. 269 (2005); and requests
19 a stay of these proceedings pending petitioner’s exhaustion, in the state courts, of his currently
20 unexhausted claims.

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