UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

YOW MING YEH,

Petitioner,

v.

JOHN DOE WARDEN,

Respondent.

No. 2:13-cv-262-TLN-EFB P

ORDER

Petitioner is a state prisoner without counsel seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254. He has requested that the court appoint 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). The court may appoint counsel at any stage of the proceedings "if the interests of justice so require." *See* 18 U.S.C. § 3006A; *see also*, Rule 8(c), Rules Governing § 2254 Cases. The court does not find that the interests of justice would be served by the appointment of counsel at this stage of the proceedings and the request will be denied without prejudice.

Additionally, in light of petitioner's statement of opposition to respondent's motion to dismiss (*see* ECF No. 16), the September 16, 2013 findings and recommendations recommending this action be dismissed for failure to prosecute (ECF No. 15), will be vacated.

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Accordingly, it hereby is ORDERED that:

1. Petitioner's request for appointment of counsel (ECF No. 16) is denied without prejudice; and

2. The September 16, 2013 findings and recommendations (ECF No. 15) are vacated.

Dated: October 7, 2013.

EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE