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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JULIUS M. ROBINSON,
Petitioner,
v.
G.W. LEWIS,
Respondent.

No. 2:13-cv-0604 WBS AC P

ORDER

This habeas corpus case is before the court on remand from the Ninth Circuit.

Petitioner, who is currently incarcerated at the Pelican Bay State Prison, filed an application for writ of habeas corpus pursuant to 28 U.S.C. § 2254. ECF No. 1. This court recommended granting respondent’s motion to dismiss (ECF No. 29), and the district court subsequently adopted the recommendation (ECF No. 34). The district court issued a certificate of appealability to the question of whether petitioner was entitled to gap tolling for the 66-day interval between the Superior Court’s denial of habeas relief and his filing of a new petition in the California Court of Appeal. ECF No. 34 at 2.

Petitioner timely appealed the district court’s decision. ECF No. 36. On appeal, David Harshaw was appointed as petitioner’s counsel (see ECF No. 40), and on August 24, 2020, the Ninth Circuit issued a memorandum reversing and remanding the district court’s order in this case (ECF No. 42).


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The court now sua sponte appoints counsel to continue petitioner’s representation on remand. Although there is no absolute right to appointment of counsel in habeas proceedings, see Nevius v. Sumner, 105 F.3d 453, 460 (9th Cir. 1996), appointment of counsel is warranted “if the interests of justice so require.” See 18 U.S.C. § 3006A(a)(2)(B). In the present case, the court finds that the interests of justice would be served by appointment of counsel at this time.

Accordingly, IT IS HEREBY ORDERED that Assistant Federal Defenders David Harshaw and Carolyn M. Wiggin are appointed to represent petitioner.

IT IS SO ORDERED.

DATED: September 21, 2020



ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE