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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

REGINALD WHEELER,
Petitioner,
v.
JEROME PRICE,
Respondents.

No. 2:14-cv-0521 MCE KJN P

ORDER

Petitioner is a state prisoner, proceeding without counsel. On January 23, 2015, petitioner filed two motions. First, petitioner 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.

Second, petitioner filed a motion for evidentiary hearing. However, at the present time, respondent’s motion to dismiss is presently pending, and no answer has yet been filed. At this stage of the proceedings, it is unclear whether an evidentiary hearing is warranted. Therefore, petitioner’s motion is denied as premature.

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Accordingly, IT IS HEREBY ORDERED that:

1. Petitioner's motion for appointment of counsel (ECF No. 11) is denied without prejudice; and
2. Petitioner's motion for evidentiary hearing is denied without prejudice.

Dated: February 3, 2015


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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