

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JONATHAN SCOTT FRANKLIN,  
Petitioner,  
v.  
STU SHERMAN, Warden,  
Respondents.

No. 2:14-cv-2496 KJN P

ORDER

Both parties consented to proceed before the undersigned for all purposes. See 28 U.S.C. § 636(c). On May 8, 2015, petitioner filed a motion for appointment of counsel, and a motion for extension of time to file a request for de novo review of the case.

Motion for Appointment of Counsel

Petitioner has 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. Petitioner’s motion is denied.

///  
///

1 Motion for Extension of Time

2 Petitioner seeks an extension of time to request de novo review of this action. However,  
3 petitioner consented to the jurisdiction of the undersigned for all purposes. See 28 U.S.C.  
4 § 636(c). Section 636(c)(3) provides, in pertinent part:

5 Upon entry of judgment . . . , an aggrieved party may appeal  
6 directly to the appropriate United States court of appeals from the  
7 judgment of the magistrate judge in the same manner as an appeal  
8 from any other judgment of a district court. The consent of the  
9 parties allows a magistrate judge designated to exercise civil  
10 jurisdiction under paragraph (1) of this subsection to direct the  
11 entry of a judgment of the district court in accordance with the  
12 Federal Rules of Civil Procedure. Nothing in this paragraph shall be  
13 construed as a limitation of any party's right to seek review by the  
14 Supreme Court of the United States.

15 28 U.S.C. § 636(c)(3).

16 Thus, petitioner is not entitled to de novo review of this court's judgment. If petitioner  
17 seeks to challenge the April 17, 2015 judgment, petitioner must file a notice of appeal, which will  
18 be heard by the Court of Appeals for the Ninth Circuit. This court will grant petitioner a brief  
19 extension of time in which to file a notice of appeal. Petitioner is cautioned that 28 U.S.C. § 2107  
20 limits this court's discretion in granting extensions of time to file an appeal.

21 Accordingly, IT IS HEREBY ORDERED that:

- 22 1. Petitioner's motion for the appointment of counsel (ECF No. 17) is denied;
- 23 2. Petitioner's motion for an extension of time to request de novo review (ECF No. 16) is  
24 denied; and
- 25 3. Petitioner is granted twenty-one days in which to file a notice of appeal.

26 Dated: May 15, 2015

27   
28 KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE

/fran2496.110