

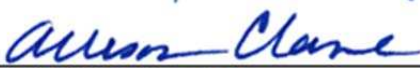
1 3006A(a)(2)(B); see also Rule 8(c), Fed. R. Governing § 2254 Cases; Chaney v. Lewis, 801 F.2d
2 1191, 1196 (9th Cir. 1986) (“[i]ndigent state prisoners applying for habeas corpus relief are not
3 entitled to appointed counsel unless the circumstances of a particular case indicate that appointed
4 counsel is necessary to prevent due process violations.”). Whether to appoint counsel in a given
5 habeas proceeding is a matter within the district court’s discretion, unless an evidentiary hearing
6 is necessary. Knaubert v. Goldsmith, 791 F.2d 722, 729-30 (9th Cir. 1986) (interests of justice
7 require appointment of counsel when an evidentiary hearing is conducted on the petition).¹

8 In the present case, the court finds that the interests of justice do not require appointment
9 of counsel at this time. Petitioner’s indigence, age, sentence and asserted innocence are
10 circumstances common to many prisoners. Moreover, the petition currently pending in this court,
11 and answered by respondent, demonstrates that petitioner is capable of articulating his claims pro
12 se despite the complexity of the issues involved. Whether an evidentiary hearing is warranted in
13 this case cannot be determined prior to the analysis required under Section 2254(d). See Cullen
14 v. Pinholster, 131 S. Ct. 1388, 1399 (2011). For present purposes, the court will extend time for
15 petitioner to file a reply to respondent’s answer.

16 Accordingly, IT IS HEREBY ORDERED that:

- 17 1. Petitioner’s request for appointment of counsel, ECF No. 20, is denied without
18 prejudice; and
- 19 2. Petitioner is granted an extension of time until July 31, 2015, in which he may file and
20 serve a reply (traverse) to respondent’s answer to the petition.

21 DATED: June 25, 2015

22 
23 ALLISON CLAIRE
24 UNITED STATES MAGISTRATE JUDGE

25 ¹ Absent an evidentiary hearing and as a general rule, a court may appoint counsel only under
26 “exceptional circumstances.” Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991). “A finding
27 of exceptional circumstances requires an evaluation of both the likelihood of success on the
28 merits and the ability of the petitioner to articulate his claims pro se in light of the complexity of
the legal issues involved. Neither of these factors is dispositive and both must be viewed together
before reaching a decision.” Id. (citations and internal quotation marks omitted).