

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

EDDIE PAYNE,
Petitioner,
v.
PARAMO, Warden,
Respondent.

No. 2:15-cv-0211 TLN KJN P

ORDER

Petitioner is a state prisoner, proceeding without counsel. On April 27, 2015, the court signed an order to show cause why petitioner’s failure to file an opposition to the motion to dismiss should not be deemed a waiver of any opposition to the granting of the motion. (ECF No. 13.) However, on April 27, 2015, petitioner’s opposition to the motion was entered on the court’s docket. Therefore, the order to show cause is vacated. Respondent’s reply, if any, may be filed seven days from the date of this order.

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 at the present time.

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

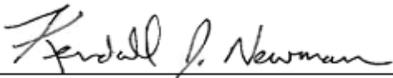
Accordingly, IT IS HEREBY ORDERED that

1. The order to show cause (ECF No. 13) is vacated;

2. Respondent's reply to petitioner's opposition may be filed within seven days from the date of this order; and

3. Petitioner's request for appointment of counsel (ECF No. 14) is denied without prejudice.

Dated: May 5, 2015


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

/payn0211.110