

1 counsel for an indigent habeas petitioner upon a finding that “the interests of justice so require.”
2 18 U.S.C. § 3006A(a)(2)(B); see also Rule 8(c), Fed. R. Governing § 2254 Cases. Such a finding
3 is generally premised on a determination that “appointed counsel is necessary to prevent due
4 process violations.” Chaney v. Lewis, 801 F.2d 1191, 1196 (9th Cir. 1986). Thus, for example,
5 petitioners must be represented by appointed counsel if the court conducts an evidentiary hearing.
6 Knaubert v. Goldsmith, 791 F.2d 722, 729-30 (9th Cir. 1986).

7 In the instant case, the court finds that neither due process nor broader interests of justice
8 require appointment of counsel at this time. Petitioner states that he is indigent, untrained in the
9 law, and without access to California legal materials because he is incarcerated in an Oregon
10 prison. Indigence and lack of legal training are common to prisoner litigants, and do not require
11 appointment of counsel. The court appreciates that petitioner’s lack of access to California legal
12 materials makes it difficult for him to respond to the legal arguments set forth in the answer.
13 Petitioner is assured that the court will carefully determine and apply the applicable law.

14 Petitioner also contends that he requires appointed counsel in order to conduct
15 investigation, obtain an affidavit from trial counsel, and prepare for evidentiary hearing. Unless
16 and until the court determines that an evidentiary hearing is warranted, appointment is not
17 appropriate for these purposes. This court cannot consider any evidence that was not previously
18 presented to the state habeas court, including supporting declarations, unless petitioner’s claims
19 first clear the hurdles imposed by 28 U.S.C. § 2254(d). See Cullen v. Pinholster, 131 S. Ct. 1388,
20 1399 (2011). If any of petitioner’s claims survive review under § 2254(d), the court will
21 reconsider the appointment of counsel at that time.

22 Petitioner’s motion for an extension of time within which to file his traverse will be
23 granted in part.

24 Accordingly, IT IS HEREBY ORDERED that:

25 1. Petitioner’s motion for appointment of counsel, ECF No. 15, is denied; and

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2. Petitioner's motion for an extension of time to file his traverse, ECF No. 14, is granted;
the traverse shall be filed on or before August 14, 2015.

DATED: June 29, 2015



ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE