

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

CLARENCE A. GIPBSIN,  
Petitioner,  
v.  
MCCUMBER, Warden, et al.,  
Respondents.

No. 2:16-cv-1590 MCE AC P

ORDER

Petitioner, a state prisoner proceeding pro se, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, together with an application to proceed in forma pauperis.

Examination of the in forma pauperis application reveals that petitioner is unable to afford the costs of suit. ECF No. 24. Accordingly, the application to proceed in forma pauperis will be granted. See 28 U.S.C. § 1915(a).

Petitioner has also filed five motions requesting the appointment of counsel. ECF Nos. 2, 8, 22, 25, 26. 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 has yet to screen the petition to determine whether it states a claim for relief and therefore does not

///

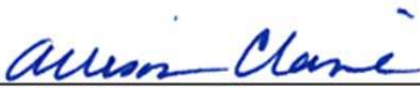
1 find that the interests of justice would be served by the appointment of counsel at the present  
2 time.

3 In addition to his multiple requests for counsel, petitioner has filed multiple requests for  
4 recall and resentencing (ECF Nos. 9, 10, 12, 13, 14, 15, 18, 19, and 28), the same relief he seeks  
5 in his petition (ECF No. 1 at 13). Petitioner shall cease filing multiple requests for the same  
6 relief. While the court understands that petitioner may be frustrated by the delays in the  
7 processing of his case, he is advised that the Eastern District of California maintains one of the  
8 heaviest caseloads in the nation, a significant portion of which is comprised of pro se inmate  
9 cases. This sometimes causes unavoidable delays in the resolution of individual matters, and  
10 petitioner's continued filing of duplicative requests does nothing but further slow the court's  
11 ability to address his case.

12 In accordance with the above, IT IS HEREBY ORDERED that:

- 13 1. Petitioner's motion to proceed in forma pauperis (ECF No. 24) is granted;
- 14 2. Petitioner's motions for appointment of counsel (ECF No's 2, 8, 22, 25 and 26) are  
15 denied without prejudice to a renewal of the motion at a later stage of the proceedings; and
- 16 3. Petitioner shall refrain from filing multiple requests for the same relief. Any such  
17 duplicative filings will be disregarded.

18 DATED: November 18, 2016.

19  
20   
21 ALLISON CLAIRE  
22 UNITED STATES MAGISTRATE JUDGE  
23  
24  
25  
26  
27  
28