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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

BENJAMIN SERRATOS, III.,  
Petitioner,  
v.  
PEOPLE OF THE STATE OF  
CALIFORNIA,  
Respondent.

No. 2:18-cv-0077 KJN P

ORDER

Petitioner is a state prisoner, proceeding in forma pauperis and through counsel. On May 4, 2020, petitioner’s counsel, retained for the limited purpose of filing a traverse, filed a motion to withdraw. Counsel Russell is retiring due to health issues, and counsel Campbell is unable to represent petitioner, going forward, on a pro bono basis.

Good cause appearing, the motion to withdraw is granted. At this time, however, the court declines to appoint petitioner 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. If the undersigned determines that an evidentiary

1 hearing is required, the court will revisit the appointment of counsel at that time.

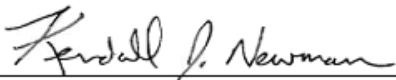
2 Accordingly, IT IS HEREBY ORDERED that:

3 1. The motion to withdraw (ECF No. 45) is granted;

4 2. The Clerk of the Court shall terminate petitioner's counsel of record and return  
5 petitioner to pro se status: Benjamin Serratos, III, CDCR No. AM3717, California Medical  
6 Facility, P.O. Box 2000, Vacaville, CA 95696-2000; and

7 3. The motion for appointment of counsel (ECF No. 45) is denied without prejudice.

8 Dated: May 22, 2020

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11 KENDALL J. NEWMAN  
12 UNITED STATES MAGISTRATE JUDGE

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