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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ALWIN DWAYNE JOHNSON, JR.,
Petitioner,
v.
ROB ST. ANDRE,
Respondent.

No. 2:24-cv-0562 KJM CKD P

ORDER

On July 2, 2024, the court asked that respondent re-serve the June 4, 2024, motion to dismiss upon petitioner. The record reflects that the motion was re-served on July 3, 2024. Petitioner indicates that, again, he did not receive it. Petitioner has asked that respondent serve the document a third time. Good cause appearing, respondent will be granted five days within which to either re-serve the motion to dismiss or file an opposition to petitioner’s request for re-service. The deadline for petitioner to file an opposition will be temporarily vacated.

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.

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Accordingly, IT IS HEREBY ORDERED that:

1. Within 5 days, respondent shall either re-serve the motion to dismiss or file an opposition to petitioner’s request for re-service.
2. The deadline for filing an opposition to the motion to dismiss is vacated.
3. Petitioner’s request for the appointment of counsel, ECF No. 17, is denied.

Dated: August 29, 2024



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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