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28UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JOSEPH ANTHONY RIVAS,

No. C 09-1285 SI (pr)

Petitioner,

**ORDER EXTENDING DEADLINES**

v.

JAMES A. YATES, warden,

Respondent.

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Petitioner requests that counsel be appointed to represent him in this action. He contends that appointment is mandatory under California Rule of Court 4.551(c)(2) upon the issuance of an order to show cause. That rule is a state court rule and does not apply to a federal habeas proceeding such as this. A district court may appoint counsel to represent a habeas petitioner whenever "the court determines that the interests of justice so require and such person is financially unable to obtain representation." 18 U.S.C. § 3006A(a)(2)(B). The decision to appoint counsel is within the discretion of the district court. See Chaney v. Lewis, 801 F.2d 1191, 1196 (9th Cir. 1986), cert. denied, 481 U.S. 1023 (1987). Appointment is mandatory only when the circumstances of a particular case indicate that appointed counsel is necessary to prevent due process violations. See id. Based on the materials in the court file, it does not appear that appointment of counsel is necessary in this action. The motion for appointment of counsel is DENIED. (Docket #9.)

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1           Petitioner also requests an extension of time to file his opposition. Upon due  
2 consideration of petitioner's request for extension of time, the court GRANTS the request.  
3 (Docket #9.) Petitioner must file and serve on respondent his opposition to the motion to dismiss  
4 no later than **November 20, 2009**. Respondent must file and serve his reply brief (if any) no  
5 later than **December 11, 2009**.

6           IT IS SO ORDERED.

7 DATED: October 20, 2009

  
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SUSAN ILLSTON  
United States District Judge

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