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5 UNITED STATES DISTRICT COURT  
6 NORTHERN DISTRICT OF CALIFORNIA  
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8 DAVID JOHN WAGNER, JR.,

No. C 09-4662 SI (pr)

9 Petitioner,

**ORDER DENYING APPOINTMENT  
OF COUNSEL**

10 v.

11 KEN CLARK, warden,


12 Respondent.  
13 \_\_\_\_\_/

14 Petitioner requests that counsel be appointed to represent him in this action and that the  
15 deadline for him to file a traverse be delayed pending a ruling on the counsel request. A district  
16 court may appoint counsel to represent a habeas petitioner whenever "the court determines that  
17 the interests of justice so require and such person is financially unable to obtain representation."  
18 18 U.S.C. § 3006A(a)(2)(B). The decision to appoint counsel is within the discretion of the  
19 district court. See Chaney v. Lewis, 801 F.2d 1191, 1196 (9th Cir. 1986). Appointment is  
20 mandatory only when the circumstances of a particular case indicate that appointed counsel is  
21 necessary to prevent due process violations. See id. The interests of justice do not require  
22 appointment of counsel in this action. The request for appointment of counsel is DENIED.  
23 (Docket # 10.)

24 The traverse deadline is now extended. Petitioner must file and serve his traverse no later  
25 than **May 6, 2011**.

26 IT IS SO ORDERED.

27 DATED: March 28, 2011

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SUSAN ILLSTON  
United States District Judge