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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KEITH LETTIER,	)	No. C 10-0371 JSW (PR)
	)	
Petitioner,	)	
	)	
vs.	)	<b>ORDER TO SHOW CAUSE</b>
	)	
ROBERT AYERS, JR., Warden,	)	(Docket No. 2)
	)	
Respondent.	)	
_____	)	

**INTRODUCTION**

Petitioner, a prisoner of the State of California, currently incarcerated at San Quentin State Prison in San Quentin, California, has filed a habeas corpus petition pursuant to 28 U.S.C. § 2254 challenging the decision of the Board of Parole Hearings (“Board”) to deny him parole in 2008. Petitioner has paid the filing fee. This order directs Respondent to show cause why the petition should not be granted.

**BACKGROUND**

According to the petition, Petitioner was convicted of second degree murder and was sentenced to 15 years-to-life in state prison. In this habeas action, Petitioner does not challenge his conviction, but instead challenges the execution of his sentence. Petitioner contends that the decision of the Board to deny him parole violates his constitutional rights. He alleges that he has exhausted state judicial remedies as to all of the claims raised in his federal petition.

**DISCUSSION**

I     Standard of Review

This court may entertain a petition for a writ of habeas corpus “in behalf of a

1 person in custody pursuant to the judgment of a State court only on the ground that he is  
2 in custody in violation of the Constitution or laws or treaties of the United States.” 28  
3 U.S.C. § 2254(a).

4 It shall “award the writ or issue an order directing the respondent to show cause  
5 why the writ should not be granted, unless it appears from the application that the  
6 applicant or person detained is not entitled thereto.” *Id.* § 2243.

## 7 II Legal Claims

8 Petitioner alleges that his constitutional rights were violated by the Board’s  
9 decision to deny him parole at his 2008 hearing. Liberally construed, the allegations are  
10 sufficient to warrant a response from Respondent. *See Board of Pardons v. Allen*, 482  
11 U.S. 369 (1987); *see, e.g., Superintendent v. Hill*, 472 U.S. 445 (1985); *Hayward v.*  
12 *Marshall*, 603 F.3d 546 (9th Cir. 2010).

## 13 III Motion for Counsel

14 Petitioner has filed a motion seeking appointment of counsel (docket no. 2). The  
15 Sixth Amendment’s right to counsel does not apply in habeas corpus actions. *Knaubert*  
16 *v. Goldsmith*, 791 F.2d 722, 728 (9th Cir. 1986). 18 U.S.C. § 3006A(a)(2)(B) authorizes  
17 appointment of counsel to represent a habeas petitioner whenever “the court determines  
18 that the interests of justice so require and such person is financially unable to obtain  
19 representation.” The decision to appoint counsel is within the discretion of the district  
20 court. *See Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986), *cert. denied*, 481 U.S.  
21 1023 (1987); *Knaubert*, 791 F.2d at 728.

22 Here, Petitioner appears to have effectively represented himself thus far and no  
23 evidentiary hearing appears necessary at this time. The Court concludes that the interests  
24 of justice do not require appointment of counsel at this time. Accordingly, Petitioner’s  
25 motion for appointment of counsel (docket no. 2) is DENIED without prejudice.

## 26 **CONCLUSION**

27 *For the foregoing reasons and for good cause shown,*



1 UNITED STATES DISTRICT COURT  
2 FOR THE  
3 NORTHERN DISTRICT OF CALIFORNIA  
4

5 KEITH L. LETTIER,  
6  
7 Plaintiff,

Case Number: CV10-00371 JSW

**CERTIFICATE OF SERVICE**

8 v.


9 ROBERT AYERS et al,  
10 Defendant.  
\_\_\_\_\_ /

11 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District  
12 Court, Northern District of California.

13 That on September 17, 2010, I SERVED a true and correct copy(ies) of the attached, by placing  
14 said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by  
15 depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office  
16 delivery receptacle located in the Clerk's office.

17 Keith L. Lettier  
18 E50464  
19 San Quentin State Prison  
20 San Quentin, CA 94974

Dated: September 17, 2010

  
Richard W. Wieking, Clerk  
By: Jennifer Ottolini, Deputy Clerk