

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ANTHONY DRIVER,

Petitioner,

v.

No. C 10-2564 SI (pr)

**ORDER DENYING APPOINTMENT
OF COUNSEL AND EXTENDING
DEADLINE**

MIKE McDONALD, warden,

Respondent.


United States District Court
For the Northern District of California

Petitioner has filed a request for appointment of counsel in which he states that appointment of counsel for an indigent petitioner is mandatory under the California Rules of Court when the court issues an order to show cause. The California Rules of Court apply to California state courts but do not govern the conduct of cases in the federal courts even if the federal courts are located in California. A federal 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). Appointment is mandatory only when the circumstances of a particular case indicate that appointed counsel is necessary to prevent due process violations. See id. Petitioner's two cognizable claims were argued on appeal in state court by his appointed counsel. The interests of justice do not require appointment of counsel in this action. The request for appointment of counsel is DENIED. (Docket # 24.)

1 The court now sua sponte extends the deadline for petitioner to file his traverse: Petitioner
2 must file and serve his traverse no later than **June 30, 2011**.

3 IT IS SO ORDERED.

4 DATED: May 24, 2011



SUSAN ILLSTON
United States District Judge

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28