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

JORGE A. GOMEZ,

No. C 12-2338 WHA (PR)

Petitioner,

ORDER APPOINTING COUNSEL

v.

G. LEWIS, Warden,

Respondent.

Petitioner, a California prisoner, filed a pro se petition for a writ of habeas corpus, claiming that Section 2933.6(a) of the California Penal Code, as amended, violates the Ex Post Facto Clause of the United States Constitution and the terms of his plea agreement. Respondent was ordered to show cause why the writ should not be granted. Respondent filed an answer denying both claims with a supporting memorandum of points and authorities. Petitioner filed a traverse.

The interests of justice warrant appointment of counsel to represent petitioner. 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 petition presents substantial and complex legal issues. For example, whether his rights under the Ex Post Facto Law were violated because the calculation of his good conduct credits is based upon actions taken by him before the changes to Section 2933.6(a) of the California Penal Code went into effect. This issue has not been resolved by the United States Court of Appeals for the Ninth Circuit. In

1 addition, petitioner's second claim cannot be resolved because no records of the contents of the
2 plea agreement have been submitted. Appointment of counsel serves the interests of justice in
3 resolving these issues correctly. Therefore, this matter is **REFERRED** to the Federal Public
4 Defender to promptly find representation for petitioner.

5 The clerk of the court is directed to provide a copy of this order to the Office of the
6 Federal Public Defender. Upon being notified by the Office of the Federal Public Defender that
7 an attorney has been located to represent petitioner, that attorney will be appointed pursuant to
8 18 U.S.C. 3006A as counsel for petitioner. At that time, supplemental briefing and oral
9 argument will be scheduled.

10 **IT IS SO ORDERED.**

11 Dated: February 12, 2013.

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13 _____
14 WILLIAM ALSUP
15 UNITED STATES DISTRICT JUDGE