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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ALAN BRUCE MCFARLANE,
Petitioner,
v.
STEPHEN FREITAS,
Respondent.

Case No. [16-cv-06401-JD](#)

ORDER ON MOTIONS

Re: Dkt. Nos. 2, 6, 14

Alan Bruce McFarlane, a probationer, filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. He also applied for leave to proceed in forma pauperis. This case was reassigned from a magistrate judge who also issued a report and recommendation that the motion to proceed in forma pauperis be denied. Petitioner has failed to demonstrate indigence and the Court adopts the report and recommendation.

Petitioner has also requested the appointment of counsel. The Sixth Amendment’s right to counsel does not apply in habeas corpus actions. *Knaubert v. Goldsmith*, 791 F.2d 722, 728 (9th Cir. 1986). However, 18 U.S.C. § 3006A(a)(2)(B) provides that in habeas cases, whenever “the court determines that the interests of justice so require”, representation may be provided for any financially eligible person. Petitioner has presented his claim adequately, and it is not particularly complex. The interests of justice do not require appointment of counsel.

CONCLUSION

1. The Court **ADOPTS** the report and recommendation (Docket No. 14) and leave to proceed in forma pauperis (Docket Nos. 2) is **DENIED**. However, petitioner has now paid the filing fee; therefore, the case may continue and the Court will screen the petition in a separate order.

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- 2. The motion to appoint counsel (Docket No. 6) is **DENIED**.
- 3. All hearings and motion dates are **VACATED**.
- 4. The Clerk shall reclassify this case to a 530 habeas corpus.

IT IS SO ORDERED.

Dated: March 1, 2017



JAMES DONATO
United States District Judge

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3 ALAN BRUCE MCFARLANE,
4 Plaintiff,
5 v.
6 STEPHEN FREITAS,
7 Defendant.
8

Case No. [16-cv-06401-JD](#)

CERTIFICATE OF SERVICE

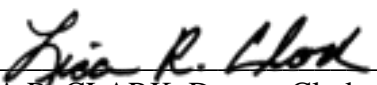
9 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S.
10 District Court, Northern District of California.

11
12 That on March 1, 2017, I SERVED a true and correct copy(ies) of the attached, by placing
13 said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by
14 depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery
15 receptacle located in the Clerk's office.
16

17 Alan Bruce McFarlane
18 P.O. Box 9554
19 Santa Rosa, CA 95405-1554

20 Dated: March 1, 2017

21
22 Susan Y. Soong
23 Clerk, United States District Court

24
25 By: 
26 LISA R. CLARK, Deputy Clerk to the
27 Honorable JAMES DONATO
28