

1 No. 11.

2 On September 3, 2010, the Court granted in part and denied in
3 part Respondent's application for a stay. The Court denied the
4 request for a stay pending appeal, but temporarily stayed the
5 Court's August 6, 2010 Order and Judgment to permit Respondent time
6 to seek a stay in the Ninth Circuit. Doc. No. 15. That same day,
7 Respondent filed a motion to stay proceedings in the Ninth Circuit;
8 that Court also set a briefing schedule. See Holder v. Curry, No.
9 10-16904 (9th Cir. 2010), Doc. Nos. 1 & 2.

10 On September 14, 2010, a letter filed with the Court from
11 Petitioner indicated that the BPH held another parole suitability
12 hearing on September 7, 2010 at which time the BPH found Petitioner
13 suitable for parole and that Petitioner was scheduled for release on
14 September 9, 2010. See Holder v. Curry, No. C-08-2572 CW (PR) (N.D.
15 Cal. filed May 21, 2008), Doc. No. 17. Nonetheless, Petitioner
16 remains in prison. See Holder v. Curry, No. 10-16904 (9th Cir.
17 2010), Doc. No. 3.

18 Although the Sixth Amendment right to counsel does not apply in
19 habeas corpus actions, see Knaubert v. Goldsmith, 791 F.2d 722, 728
20 (9th Cir. 1986), 18 U.S.C. § 3006A(a)(2)(B) authorizes a district
21 court to appoint counsel to represent a habeas petitioner whenever
22 "the court determines that the interests of justice so
23 require" Such is the case here.

24 Good cause appearing, the Court hereby sua sponte APPOINTS
25 COUNSEL to represent Petitioner. The matter is REFERRED to the
26 Federal Public Defender to find representation for Petitioner.

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1 The Clerk of the Court is directed to provide a copy of this
2 Order to the Office of the Federal Public Defender. Upon being
3 notified by the Office of the Federal Public Defender that an
4 attorney has been located to represent Petitioner, the Court will
5 appoint that attorney as counsel for Petitioner.

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IT IS SO ORDERED.

Dated: 10/18/2010



CLAUDIA WILKEN
United States District Judge

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

4 KEITH HOLDER,

5 Plaintiff,

6 v.

7 BEN CURRY et al,

8 Defendant.

Case Number: CV08-02572 CW

CERTIFICATE OF SERVICE

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

11 That on October 18, 2010, I SERVED a true and correct copy(ies) of the attached, by placing said
12 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said
13 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located
14 in the Clerk's office.

15 Keith Holder
16 E87291
17 Correctional Training Facility
18 P.O. Box 689, YW-222-L
19 Soledad, CA 93960

20 Office of the Federal Public Defender
21 450 Golden gate Avenue
22 Room 19-6884, Box 36106
23 San Francisco, CA 94102

24 Dated: October 18, 2010

25 Richard W. Wieking, Clerk
26 By: Nikki Riley, Deputy Clerk
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