

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

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

PAUL ALBERT GUARDADO,

No. C 08-03268 CW (PR)

Petitioner,

AMENDED ORDER GRANTING
PETITIONER'S MOTION FOR
APPOINTMENT OF COUNSEL

v.

J. DAVIS, et al.,

(Docket no. 3)

Respondents.

Petitioner has filed a motion for appointment of counsel and an application for in forma pauperis status (docket no. 3). He specifically requests the appointment of Kent G. Washburn. Mr. Washburn represents Petitioner in his other habeas action, Case No. C 05-0194 CW (PR), where the Court granted the habeas petition challenging four parole denials immediately preceding the one at issue in the present case.

The Sixth Amendment's right to counsel does not apply in habeas corpus actions. See Knaubert v. Goldsmith, 791 F.2d 722, 728 (9th Cir. 1986). The Court may, however, 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); Knaubert, 791 F.2d at 728; Bashor v. Risley, 730 F.2d 1228, 1234 (9th Cir. 1984).

1 Attached to Petitioner's motion for appointment of counsel is
2 Mr. Washburn's declaration. Mr. Washburn states that he is willing
3 and able to accept appointment on Petitioner's behalf because he is
4 already familiar with Petitioner's file, including but not limited
5 to the current status of the previous habeas action, the prison
6 central file and the transcripts of past parole hearings.
7 (Washburn Decl. ¶¶ 6-7.)

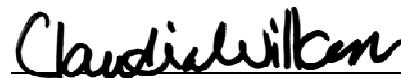
8 The Court finds that the appointment of Mr. Washburn to
9 represent Petitioner is warranted in this action. Accordingly, in
10 the interests of justice and good cause appearing, the motion for
11 appointment of counsel (docket no. 3) is GRANTED. The Court
12 appoints **Kent G. Washburn (SBN 88282) of 501 Moraga Way, Orinda, CA**
13 **94563**, to represent Petitioner in this action. Petitioner's
14 counsel should seek reimbursement pursuant to 18 U.S.C. § 3006A(d)
15 and (e) via the Federal Public Defender's Office. The Court
16 directs Petitioner's counsel to abide by the briefing schedule in
17 the Court's Order to Show Cause, filed on the same date as this
18 Order.

19 The Clerk of the Court shall send a copy of this Order to
20 Petitioner's counsel, to Petitioner, to the Federal Public
21 Defender, and to Respondents.

22 This Order terminates Docket no. 3.

23 IT IS SO ORDERED.

24
25 Dated: 11/12/08



CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE

26
27
28

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

4 PAUL ALBERT GUARDADO,

5 Plaintiff,

6 v.

7 J. DAVIS et al,

8 Defendant.

Case Number: CV08-03268 CW

CERTIFICATE OF SERVICE

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

11 That on November 12, 2008, 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.

14 Paul Albert Guardado E-36459
15 CTF North
16 Rainer B, 344
17 P.O. Box 705
18 Soledad, CA 93960-0705

17 Kent G. Washburn (SBN 88282)
18 501 Moraga Way
19 Orinda, CA 94563,

19 M. Cate, Director
20 CA Dept. of Corrections and Rehabilitation
21 P.O. Box 942883
22 Sacramento, CA 94283

21 Ben Curry, Warden
22 CTF
23 P.O. Box 686
24 Soledad, CA 93960-0686

24 J. David, Chariman
25 Dept. of Parole Hearings
26 1515 S Street
27 Sacramento, CA 95811-7243

26 Federal Public Defender
27 450 Golden Gate Avenue
28 San Francisco, CA 94102

United States District Court
For the Northern District of California

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

Dated: November 12, 2008

Richard W. Wieking, Clerk
By: Sheilah Cahill, Deputy Clerk