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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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11 HENRY MONTGOMERY,

12 Petitioner,

13 v.

14 VINCENT S. CULLEN,

15 Respondent.

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) No. C 10-1625 LHK (PR)
)
) ORDER DENYING MOTION FOR
) APPOINTMENT OF COUNSEL
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)
) (Docket No. 6)

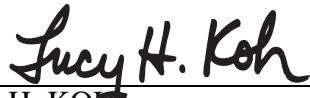
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17 Petitioner has filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C.
18 § 2254. Petitioner has requested appointment of counsel in this action because he is a layman to the
19 law and because of his prison job assignments and lockdowns. However, the Sixth Amendment's
20 right to counsel does not apply in habeas corpus actions. *Knaubert v. Goldsmith*, 791 F.2d 722, 728
21 (9th Cir. 1986). While 18 U.S.C. § 3006A(a)(2)(B) authorizes a district court to appoint counsel to
22 represent a habeas petitioner if "the court determines that the interests of justice so require," the
23 courts have made appointment of counsel the exception rather than the rule. Appointment is
24 mandatory only when the circumstances of a particular case indicate that appointed counsel is
25 necessary to prevent due process violations. *See Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir.
26 1986).

27 Petitioner has thus far been able to adequately present his claims for relief. Respondent has
28 been ordered to produced the state records. No evidentiary hearing appears necessary in this case,

1 nor are any other extraordinary circumstances apparent. At this time, appointment of counsel is not
2 mandated, and the interests of justice do not require appointment of counsel. Accordingly, the
3 Plaintiff's request is DENIED. This denial is without prejudice to the Court's *sua sponte*
4 reconsideration should the developments of this case dictate otherwise.

5 IT IS SO ORDERED.

6 DATED: 11/5/2010

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LUCY H. KOH
United States District Judge