

FILED

SEP 09 2011

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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

CHANH VAN NGUYEN,

No. C 10-02148 EJD (PR)

Petitioner,

ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL

v.

D. K. SISTO, Warden,

Respondent.

/ (Docket No. 26)

Petitioner, a state prisoner proceeding pro se, filed a second amended petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner has filed a motion for appointment of counsel. (Docket No. 26.)

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.), cert. denied, 479 U.S. 867 (1986). Unless an evidentiary hearing is required, the decision to appoint counsel is within the discretion of the district court. See Knaubert, 791 F.2d at 728; Bashor v. Risley, 730 F.2d 1228, 1234 (9th Cir.), cert. denied, 469 U.S. 838 (1984). An evidentiary hearing does not appear necessary at this time, and there are no exceptional circumstances to warrant appointment of counsel. Accordingly, Petitioner's motion is DENIED. This denial is without prejudice to the Court's sua sponte reconsideration should the Court later find an

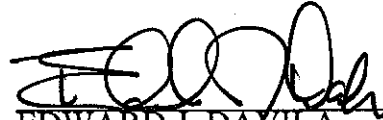
United States District Court
For the Northern District of California

1 evidentiary hearing necessary following consideration of the merits of Petitioner's claims.

2 This order terminates Docket No. 26.

3 DATED: _____

9/8/11


EDWARD J. DAVILA
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

CHANH VAN NGUYEN,
Petitioner,

Case Number: CV10-02148 EJD

CERTIFICATE OF SERVICE

v.

D. K. SISTO, Warden,

Respondent.

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

That on 9/09/11, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Chanh Van Nguyen V-07324
Folsom State Prison
P. O. Box 950
Folsom, Ca 95763

Dated: 9/09/11

Richard W. Wieking, Clerk
By: Elizabeth Garcia, Deputy Clerk