

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ESEQUIEL GARCIA,
Petitioner,

v.

RAYTHEL FISHER, Warden,
Respondent.

Case No. 16-05301 BLF (PR)

**ORDER DENYING EMERGENCY
APPLICATION FOR
APPOINTMENT OF COUNSEL;
GRANTING SECOND EXTENSION
OF TIME TO FILE TRAVERSE**

(Docket No. 64)

Petitioner, a California prisoner, filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On June 19, 2020, Respondent filed an answer. Dkt. No. 56. Petitioner's traverse is currently due no later than September 22, 2020. On September 18, 2020, Petitioner filed an "emergency application for appointment of counsel due to covid-19." Dkt. No. 64. Petitioner asserts that due to the current quarantine at the prison, he is unable to access the prison law library or have contact with his parents who are assisting him in this matter. *Id.*

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. *Id.*; *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.),

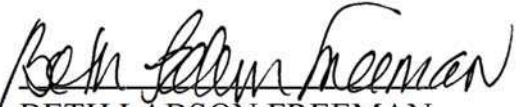
1 *cert. denied*, 469 U.S. 838 (1984). An evidentiary hearing does not appear necessary at
2 this time, and the current circumstances Petitioner faces due to covid-19 are not
3 exceptional as prisoners across the country are facing similar circumstances. Accordingly,
4 the motion is DENIED.

5 However, Petitioner shows good cause to warrant another extension of time to file a
6 traverse. Petitioner shall be granted an extension of forty-two (42) days, such that his
7 traverse shall be filed **no later than November 3, 2020**. The matter will be deemed
8 submitted on the date Petitioner's traverse is due.

9 This order terminates Docket No. 64.

10 **IT IS SO ORDERED.**

11 Dated: September 22, 2020


BETH LABSON FREEMAN
United States District Judge