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28UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JOSEPH RINALDI,

Petitioner,

v.

M.E. POULOS et al.,

Respondent.

Civil No. 08-cv-1637-L (POR)

**ORDER DENYING WITHOUT
PREJUDICE REQUEST FOR
APPOINTMENT OF COUNSEL****[Document No. 20]**

On March 20, 2009, Petitioner, a state prisoner proceeding *pro se*, filed a Notice of Request and Declaration for Appointment of Counsel to continue pursuing his petition for a writ of habeas corpus brought pursuant to 28 U.S.C. § 2254. (Doc. 20).

The Sixth Amendment right to counsel does not extend to federal habeas corpus actions by state prisoners. McCleskey v. Zant, 499 U.S. 467, 495 (1991); Chaney v. Lewis, 801 F.2d 1191, 1196 (9th Cir. 1986); Knaubert v. Goldsmith, 791 F.2d 722, 728 (9th Cir. 1986). However, financially eligible habeas petitioners seeking relief pursuant to 28 U.S.C. § 2254 may obtain representation whenever the court "determines that the interests of justice so require." 18 U.S.C. § 3006A(a)(2)(B) (West Supp. 1995); Terrovona v. Kincheloe, 912 F.2d 1176, 1181 (9th Cir. 1990); Bashor v. Risley, 730 F.2d 1228, 1234 (9th Cir. 1984).

In the Ninth Circuit, "[i]ndigent state prisoners applying for habeas relief are not entitled to appointed counsel unless the circumstances of a particular case indicate that appointed counsel is necessary to prevent due process violations." Chaney, 801 F.2d at 1196; Knaubert, 791 F.2d at 728-29. A due process violation may occur in the absence of counsel if the issues involved are too

1 complex for the petitioner. In addition, the appointment of counsel may be necessary if the
2 petitioner has such limited education that he or she is incapable of presenting his or her claims.
3 Hawkins v. Bennett, 423 F.2d 948, 950 (8th Cir. 1970).

4 "The procedures employed by the federal courts are highly protective of a pro se petitioner's
5 rights. The district court is required to construe a pro se petition more liberally than it would
6 construe a petition drafted by counsel." Knaubert, 791 F.2d at 729 (citing Haines v. Kerner, 404
7 U.S. 519, 520 (1972) (holding pro se complaint to less stringent standard) (per curiam)); Bashor, 730
8 F.2d at 1234.

9 Here, Petitioner requests appointment of counsel due to the "complexity" of the case. (Doc.
10 20 at 5). Petitioner, however, has sufficiently represented himself to date. From the face of the
11 Petition for Writ of Habeas Corpus, filed pro se, it appears Petitioner has a good grasp of this case
12 and the legal issues involved. (Doc. 1). The Petition in this case was pleaded sufficiently to warrant
13 this Court's order directing Respondent to file an answer or other responsive pleading to the Petition.
14 (Doc. 5). Further, Petitioner filed a Response in Opposition to Respondent's Motion to Dismiss
15 (Doc. 15), demonstrating he exhausted each ground of his Petition. Based on his Response, the
16 Court filed a Report and Recommendation that Respondent's Motion to Dismiss be Denied. (Doc.
17 19). On April 3, 2009, the Honorable M. James Lorenz adopted the Report and Recommendation
18 denying Respondent's Motion to Dismiss. (Doc. 21). At this stage of the proceedings, the Court
19 finds the interests of justice do not require the appointment of counsel. Based thereon, Petitioner's
20 request for appointment of counsel is hereby DENIED without prejudice.

21 **IT IS SO ORDERED.**

22 DATED: April 13, 2009

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25 LOUISA S PORTER
26 United States Magistrate Judge

26 cc: The Honorable M. James Lorenz
27 all parties
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