



1 seek leave of the court as respondents have filed a responsive pleading in this action. Fed. R. Civ. P.  
2 15(a)(1)-(2). To the extent that petitioner seeks leave of the court to file a traverse to respondents'  
3 answer, the court will grant the motions, and allow petitioner thirty days to file a traverse.

4 Also before the Court is petitioner's second motion for appointment of counsel  
5 (docket #38). This Court previously denied a motion for appointment of counsel (docket #7). There  
6 is no constitutional right to appointed counsel for a federal habeas corpus proceeding. *Pennsylvania*  
7 *v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir. 1993). The  
8 decision to appoint counsel is generally discretionary. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th  
9 Cir. 1986), *cert. denied*, 481 U.S. 1023 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.),  
10 *cert. denied*, 469 U.S. 838 (1984). However, counsel must be appointed if the complexities of the  
11 case are such that denial of counsel would amount to a denial of due process, and where the  
12 petitioner is a person of such limited education as to be incapable of fairly presenting his claims. See  
13 *Chaney*, 801 F.2d at 1196; *see also Hawkins v. Bennett*, 423 F.2d 948 (8th Cir. 1970).

14 The petition on file in this action is organized and raises the issues in a clear and  
15 understandable manner. The issues do not appear to be overly complex. It does not appear that  
16 counsel is justified in this instance. The motion shall be denied.

17 **IT IS THEREFORE ORDERED** that petitioner's motions to stay the proceedings  
18 and request for leave to file a traverse (docket #42 and #43) are **GRANTED IN PART AND**  
19 **DENIED IN PART**. The Court will not grant a stay of the proceedings. However, the Court will  
20 grant petitioner additional time to file a traverse. Petitioner shall have up to, and including, **October**  
21 **26, 2009**, to file a traverse to respondents' answer.

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**IT IS FURTHER ORDERED** that petitioner's motion for appointment of counsel  
(docket #38) is **DENIED**.

DATED this 24<sup>th</sup> day of September, 2009.

  
UNITED STATES DISTRICT JUDGE