

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

KEITH STEWART #98926

CIVIL ACTION

VERSUS

NO. 06-0213

BURL CAIN


SECTION "K"(3)

ORDER AND OPINION

Before the Court is a "Motion for Appointment of Counsel" filed by petitioner Keith Stewart (Doc. 23). Having reviewed the record, the pleadings, and relevant law, the Court, for the reasons assigned, the Court DENIES the motion.

There is no right to counsel in a federal *habeas corpus* matter. *McClesky v. Zant*, 499 U.S. 467, 495, 111 S. Ct. 1454, 1471, 113 L. Ed.2d 517 (1991). However, 28 U.S.C. §1915(e)(1) permits appointment of counsel in a federal *habeas corpus* proceeding. Appointment of counsel is appropriate when the interests of justice so require. *See* 18 U.S.C. §3006A; 28 U.S.C. §1915(e)(1). In determining whether the interests of justice require the appointment of counsel, the Court must apply the principles of fundamental fairness and due process in analyzing the issue. *See Norris v. Wainwright*, 588 F.2d 130, 134 (5th Cir. 1979). Because this matter can be resolved on the record and the pleadings, the interests of justice do not require the appointment of counsel.

New Orleans, Louisiana this 3rd day of October, 2008.



STANWOOD R. DUVAL, JR.
UNITED STATES DISTRICT JUDGE