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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Thomas White,

Petitioner,

vs.

Sandra White, et al.,

Respondents.

No. CV-10-2495-PHX-PGR

(9th Cir. No. 11-16048)

ORDER

The Court enter its judgment (Doc. 18) dismissing the petitioner’s habeas petition, filed pursuant to 28 U.S.C. § 2254, on April 19, 2011. The petitioner, in a combined document, filed his notice of appeal (Doc. 19) and his pending Motion for Counsel (Doc. 20) on April 25, 2011.

The filing of a notice of appeal generally confers jurisdiction on the court of appeals and divests the district court of jurisdiction, except, in relevant part, to the extent that the district court retains jurisdiction to act in aid of the appeal. Since the Court construes the plaintiff’s motion as seeking the appointment of counsel to aid him in prosecuting his appeal, the Court concludes that it has the authority to rule on the motion.

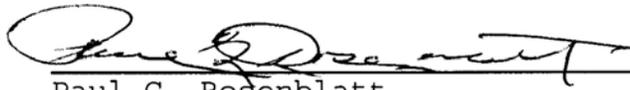
While there is no constitutional right to appointed counsel in a civil action,

1 the Court may request counsel to represent an indigent litigant under 28 U.S.C.
2 § 1915(e)(1) if it is persuaded that there are “exceptional circumstances” to do so,
3 which requires that the Court take into account the plaintiff’s likelihood of success
4 on the merits of his action and his ability to articulate his claims *pro se* in light of
5 the complexity of the legal issues involved. Terrell v. Brewer, 935 F.2d 1015,
6 1017 (9th Cir.1991).

7 Having reviewed the plaintiff’s motion in light of the record of this action,
8 the Court finds that the motion should be denied. The Court cannot conclude that
9 the required exceptional circumstances exist because the plaintiff has not
10 demonstrated any sufficient likelihood of success on appeal or that his action is
11 now so complex that he cannot continue to prosecute it on his own. Therefore,

12 IT IS ORDERED that the plaintiff’s Motion for Counsel (Doc. 20) is denied.

13 DATED this 20th day of June, 2011.

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15 
16 Paul G. Rosenblatt
United States District Judge