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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

Thomas Clark,  
Petitioner,  
v.  
Charles L Ryan, et al.,  
Respondents.

No. CV-17-03105-PHX-DGC (ESW)

**ORDER**

Petitioner Thomas Clark, who is confined in the Arizona State Prison-Kingman, filed a pro se Amended Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 (Doc. 19) which the Court ordered the Government to answer. (Doc. 20 at 4). On March 19, 2018, Petitioner filed a second “Motion Requesting to Have an Attorney Assign [sic] to My Case, Represent Me in Court” (Doc. 24). Petitioner requests the appointment of counsel because Petitioner (i) is not educated in the law, (ii) is indigent, and (iii) needs to conduct discovery.

There is no constitutional right to the appointment of counsel in a civil case. *See Johnson v. U.S. Dep’t of Treasury*, 939 F.2d 820, 824 (9th Cir. 1991); *Ivey v. Bd of Regents of the Univ. of Alaska*, 673 F.2d 266, 269 (9th Cir. 1982). In pro se and *in forma pauperis* proceedings, district courts do not have the authority “to make coercive appointments of counsel.” *Mallard v. United States District Court*, 490 U.S. 296, 310 (1989). District courts, however, do have the discretion to request that an attorney

1 represent an indigent civil litigant upon a showing of “exceptional circumstances.” 28  
2 U.S.C. § 1915(e)(1); *Agyeman v. Corrections Corp. Of America*, 390 F.3d 1101, 1103  
3 (9th Cir. 2004); *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991). “Indigent state  
4 prisoners applying for habeas corpus relief are not entitled to appointed counsel unless  
5 the circumstances of a particular case indicate that appointed counsel is necessary to  
6 prevent due process violations.” *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986).  
7 However, the Court has discretion to appoint counsel when “the interests of justice so  
8 require.” 18 U.S.C. § 3006A(a)(2)(B).

9 A determination with respect to exceptional circumstances requires an evaluation  
10 of the likelihood of success on the merits as well as the ability of Plaintiff to articulate his  
11 claims pro se in light of the complexity of the legal issue involved. *Id.* “Neither of these  
12 factors is dispositive and both must be viewed together before reaching a decision.” *Id.*  
13 (quoting *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986)).

14 Petitioner’s filings with the Court indicate that Petitioner is capable of navigating  
15 this proceeding and presenting arguments to the Court. Having considered the likelihood  
16 of success on the merits and Petitioner’s ability to articulate his claims, the Court does  
17 not find that exceptional circumstances are present that would require the appointment of  
18 counsel in this case. Petitioner remains in a position no different than many pro se  
19 prisoner litigants. The Court does not find that the appointment of counsel is necessary to  
20 prevent due process violations. Nor do the interests of justice so require appointment.  
21 The Court will deny Petitioner’s “Motion Requesting to Have an Attorney Assign [sic] to  
22 My Case, Represent Me in Court” (Doc. 24). If, at a later date, the Court determines that  
23 an evidentiary hearing is required, the Court will appoint counsel in accordance with Rule  
24 8(c) of the Rules Governing Section 2254 Proceedings.

25 For the reasons set forth herein,

26 **IT IS ORDERED** denying Petitioner’s “Motion Requesting to Have an Attorney  
27 Assign [sic] to My Case, Represent Me in Court” (Doc. 24).

28 Dated this 12th day of April, 2018.

  
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Eileen S. Willett  
United States Magistrate Judge