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8 **UNITED STATES DISTRICT COURT**  
9 **EASTERN DISTRICT OF CALIFORNIA**  
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11 MARCOS PALOMAR,  
12                   Petitioner,  
13           v.  
14 RAYMOND MADDEN,  
15                   Respondent.

Case No. 1:15-cv-01279-DAD-SAB-HC  
ORDER DENYING MOTION FOR  
APPOINTMENT OF COUNSEL  
(ECF No. 16)

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17       Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus  
18 pursuant to 28 U.S.C. § 2254. Petitioner has filed a motion for appointment of counsel. (ECF  
19 No. 16).

20       There currently exists no absolute right to appointment of counsel in habeas proceedings.  
21 See, e.g., Anderson v. Heinze, 258 F.2d 479, 481 (9th Cir. 1958); Mitchell v. Wyrick, 727 F.2d  
22 773, 774 (8th Cir. 1984). However, Title 18 U.S.C. 3006A(a)(2)(B) authorizes the appointment  
23 of counsel at any stage of the case if “the interests of justice so require.” See Rule 8(c), Rules  
24 Governing Section 2254 Cases. The court should only appoint counsel under “exceptional  
25 circumstances” and after evaluating the likelihood of success on the merits and the ability of the  
26 petitioner to articulate his claims pro se in light of the complexity of the legal issues involved.  
27 See Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983).

28       Petitioner mentions that someone has been assigned to represent the Respondent and  
Petitioner requests that the Court appoint him an attorney as well. It appears that Petitioner is

1 referring to Respondent's counsel's October 22, 2015 notice of appearance and designation of  
2 counsel for service. The Court notes that the Court did not appoint an attorney for Respondent.

3 Petitioner argues that counsel should be appointed because he cannot afford an attorney,  
4 he does not know anything about the law, and he does not know how to read or write English.  
5 Petitioner indicates that he asked someone to write his motion for appointment of counsel for  
6 him. The Court notes that Petitioner was able to submit his petition, motion to proceed in form  
7 pauperis, and the instant motion for appointment of counsel in English. Therefore, the record  
8 suggests that Petitioner either has some proficiency in English or access to a translator.

9 Upon a review of Petitioner's petition, motion to proceed in forma pauperis, and the  
10 instant motion for the appointment of counsel, the Court finds that Petitioner has a sufficient  
11 grasp of his claims for habeas relief and the legal issues involved, and that he is able to articulate  
12 those claims adequately, even though someone else may be assisting him. Furthermore,  
13 Petitioner does not demonstrate a likelihood of success on the merits such that his case should be  
14 classified as an "exceptional circumstance." See Weygandt, 718 F.2d at 954. Therefore, in the  
15 present case, the Court does not find that the interests of justice require the appointment of  
16 counsel at the present time.

17 Accordingly, IT IS HEREBY ORDERED that Petitioner's motion for appointment of  
18 counsel is DENIED.

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20 IT IS SO ORDERED.

21 Dated: December 7, 2015

  
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UNITED STATES MAGISTRATE JUDGE