

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF CALIFORNIA

3  
4 XAVIER LUMAR J-WEIAL,

5 Petitioner,

6 v.

7 DAVE DAVEY, Warden,

8 Respondents.

CASE NO. 1:16-cv-00044-SKO HC

ORDER DENYING PETITIONER'S MOTION  
FOR APPOINTMENT OF COUNSEL

(Doc. 8)

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10  
11 Petitioner, proceeding *pro se* with a petition for writ of habeas corpus pursuant to 28 U.S.C.  
12 § 2254, moves for appointment of counsel. In habeas proceedings, no absolute right to appointment of  
13 counsel currently exists. *See, e.g., Anderson v. Heinze*, 258 F.2d 479, 481 (9<sup>th</sup> Cir. 1958); *Mitchell v.*  
14 *Wyrick*, 727 F.2d 773, 774 (8<sup>th</sup> Cir. 1984). Nonetheless, a court may appoint counsel at any stage of the  
15 case "if the interests of justice so require." 18 U.S.C. § 3006A(a)(2)(B); Rule 8(c), Rules Governing  
16 Section 2254 Cases.

17 Petitioner contends that appointment of counsel is required since (1) he lacks the financial means  
18 to hire counsel; (2) he is unable to investigate his claims while incarcerated; and (3) his case is unduly  
19 complex. He shares these three conditions with nearly all petitioners for writs of habeas corpus.  
20 Petitioner has competently filed his petition and motion for appointment of counsel, presenting well  
21 reasoned arguments supported by appropriate legal citations. Accordingly, the Court finds no evidence  
22 that the interests of justice require the appointment of counsel at this time.

23 Petitioner's motion for appointment of counsel is hereby DENIED.

24 IT IS SO ORDERED.

25 Dated: January 21, 2016

26 /s/ Sheila K. Oberto  
27 UNITED STATES MAGISTRATE JUDGE