

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
10

11 LUKE A. SCARMAZZO,

12 Petitioner,

13 v.

14 PLUMLEY,

15 Respondent.
16

Case No. 1:17-cv-00939-EPG-HC

ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL

(ECF No. 3)

17 Petitioner is proceeding *pro se* with a petition for writ of habeas corpus pursuant to 28
18 U.S.C. § 2241. Petitioner has requested the appointment of counsel. (ECF No. 3).

19 There currently exists no absolute right to appointment of counsel in habeas proceedings.
20 See, e.g., Chaney v. Lewis, 801 F.2d 1191, 1196 (9th Cir. 1986); Anderson v. Heinze, 258 F.2d
21 479, 481 (9th Cir. 1958). However, the Criminal Justice Act authorizes the appointment of
22 counsel at any stage of the proceeding for financially eligible persons if “the interests of justice
23 so require.” 18 U.S.C. § 3006A(a)(2)(B). To determine whether to appoint counsel, the “court
24 must evaluate the likelihood of success on the merits as well as the ability of the petitioner to
25 articulate his claims *pro se* in light of the complexity of the legal issues involved.” Weygandt v.
26 Look, 718 F.2d 952, 954 (9th Cir. 1983).

27 Petitioner argues that counsel should be appointed because he has limited access to the
28 law library and limited knowledge of the law. Petitioner contends that the issues in this case are

1 complex and require significant research and investigation. Upon review of the petition, the
2 Court finds that Petitioner has a sufficient grasp of his claims for habeas relief and that he is able
3 to articulate those claims adequately. Petitioner does not demonstrate a likelihood of success on
4 the merits such that the interests of justice require the appointment of counsel at the present time.

5 Accordingly, IT IS HEREBY ORDERED that Petitioner's motion for appointment of
6 counsel is DENIED without prejudice.

7
8 IT IS SO ORDERED.

9 Dated: July 20, 2017

/s/ Eric P. Grogan
UNITED STATES MAGISTRATE JUDGE