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8 **UNITED STATES DISTRICT COURT**  
9 **EASTERN DISTRICT OF CALIFORNIA**  
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11 XAVIER LUMAR J'WEIAL,

12 Petitioner,

13 v.

14 JOE LIZARRAGA,

15 Respondent.  
16

Case No. 1:17-cv-01526-AWI-EPG-HC

ORDER DENYING MOTION FOR  
APPOINTMENT OF COUNSEL

(ECF No. 21)

17 Petitioner is proceeding *pro se* with a petition for writ of habeas corpus pursuant to 28  
18 U.S.C. § 2254. Petitioner has filed a motion for appointment of counsel. (ECF No. 21).

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, 18 U.S.C. § 3006A(a)(2)(B) authorizes the appointment of  
22 counsel at any stage of the proceeding for financially eligible persons if “the interests of justice  
23 so require.” See Rule 8(c), Rules Governing Section 2254 Cases. To determine whether to  
24 appoint counsel, the “court must evaluate the likelihood of success on the merits as well as the  
25 ability of the petitioner to articulate his claims *pro se* in light of the complexity of the legal issues  
26 involved.” Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983).

27 Upon review of the petition and Petitioner’s opposition to the motion to dismiss, the  
28 Court finds that Petitioner appears to have a sufficient grasp of his claims and the legal issues

1 involved and that he is able to articulate those claims adequately. The legal issues involved are  
2 not extremely complex, and Petitioner does not demonstrate a likelihood of success on the merits  
3 such that the interests of justice require the appointment of counsel at the present time.

4 Accordingly, IT IS HEREBY ORDERED that Petitioner's motion for appointment of  
5 counsel (ECF No. 21) is DENIED without prejudice.

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7 IT IS SO ORDERED.

8 Dated: February 26, 2018

9 /s/ Eric P. Gray  
10 UNITED STATES MAGISTRATE JUDGE  
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