

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RICHARD LEON LOUGHMILLER,

Petitioner,

vs.

KATHLEEN DICKINSON, Warden,

Respondent.

Case No: 2:09-cv-02094-JKS

ORDER

[Re: Motion at Docket No. 35]

At Docket No. 35 Richard Leon Loughmiller, a state prisoner proceeding *pro se*, filed a Motion for the Appointment of Counsel to represent him on appeal. There is no constitutional right to counsel in federal habeas proceedings.¹ This Court may, however, appoint counsel under the Criminal Justice Act in this case if the court determines that the interests of justice so require.² This Court having determined to issue a certificate of appealability in this case has also determined that there is a reasonable likelihood that Loughmiller may prevail and that the legal issue presented is of sufficient complexity to warrant the appointment of counsel.

IT IS HEREBY ORDERED THAT the Motion for Appointment of Counsel at Docket No. 35 is **GRANTED**.

¹ See *Lawrence v. Florida*, 549 U.S. 327, 336-37 (2007) (citing *Coleman v. Thompson*, 501 U.S. 722, 756-57 (1991)).

² 28 U.S.C. § 2254(h); 18 U.S.C. § 3006A(a)(2)(B); see *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983) (“In deciding whether to appoint counsel in a habeas proceeding, the district court must evaluate the likelihood of success on the merits as well as the ability of the petitioner to articulate his claims *pro se* in light of the complexity of the legal issues involved.”).

IT IS FURTHER ORDERED THAT the Federal Public Defender is hereby appointed as counsel for Richard Leon Loughmiller.

The Clerk of the Court is directed serve a copy of this Order on David Porter, Assistant Federal Public Defender, and to transmit a copy to the Court of Appeals.

Dated: February 2, 2012

/s/ James K. Singleton, Jr.
JAMES K. SINGLETON, JR.
United States District Judge