

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

WILLIAM MICHAEL TODD,

Petitioner,

vs.

FRAUENHEIM, Warden, Pleasant Valley
State Prison,

Respondent.

No. 2:15-cv-00210-JKS

ORDER

[Re: Motion at Docket No. 21]

This Court denied William Michael Todd, a state prisoner proceeding *pro se*, habeas relief and a certificate of appealability on July 7, 2016. Docket Nos. 19, 20. Todd timely filed with this Court a notice of appeal dated July 29, 2016. Docket No. 22.

At Docket No. 21, Todd requests the appointment of counsel. While this Court is not unmindful of the plight of unrepresented state prisoners in federal habeas proceedings, there is no constitutional right to counsel in federal habeas proceedings. *See Lawrence v. Florida*, 549 U.S. 327, 336-37 (2007) (citing *Coleman v. Thompson*, 501 U.S. 722, 756-57 (1991)).

Appointment of counsel is not required in a habeas corpus proceeding in the absence of an order granting discovery or an evidentiary hearing. *See* Rules Governing Section 2254 Cases in the U.S. District Courts, Rule 6(a), 8(c). This Court may under the Criminal Justice Act appoint counsel in this case if it determines that the interests of justice so require. 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.”). Because this case has been fully briefed and adjudicated on the merits, and the Court determined that no Certificate of Appealability should be granted, this Court does not so determine.

Todd also requests a certificate of appealability. Because this Court has already denied Todd a certificate of appealability, it appears that Todd inadvertently filed his motion with this Court rather than the Court of Appeals.

IT IS THEREFORE ORDERED THAT the Motion for the Appointment of Counsel at Docket No. 21 is **DENIED**.

IT IS FURTHER ORDERED THAT the Clerk of Court is directed to transfer Todd’s Motion for a Certificate of Appealability at Docket No. 21 to the Ninth Circuit Court of Appeals.

Dated: August 10, 2016.

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