

1 evidentiary hearing is required, appointment of counsel pursuant to 18 U.S.C. § 3006A(a)(2)(B) is in
2 the discretion of the district court. *Terrovona v. Kincheloe*, 912 F.2d 1176, 1181-82 (9th Cir. 1990).
3 In deciding whether to appoint counsel, the district court “must evaluate the likelihood of success on
4 the merits as well as the ability of the petitioner to articulate his claims *pro se* in light of the
5 complexity of the legal issues involved.” *Gutierrez v. Flannican*, No. CIV 05-2981 PHX DGC
6 (DKD), 2005 U.S. Dist. LEXIS 31984, *1-2 (D. Ariz. Dec. 7, 2005); *citing Weygandt v. Look*, 718
7 F.2d 952, 954 (9th Cir. 1983).

8 **A. Financial Eligibility**

9 The Court has reviewed Petitioner’s prison trust account and the declaration of Janet Tung,
10 and concludes that Petitioner is financially eligible for appointment of counsel. Petitioner has a prison
11 trust account balance of zero dollars and he cannot afford to pay counsel with outside funds. *See*
12 Declaration of Janet Tung, ¶ 17; Petition for Writ of Habeas Corpus at Appendix A.

13 **B. Likelihood of Success on the Merits**

14 Respondents have detained Petitioner since February 9, 2005, while Petitioner appeals from
15 an Administrative Law Judge’s order authorizing Petitioner’s deportation. The Court of Appeals for
16 the Ninth Circuit has stayed Petitioner’s deportation pending appeal.

17 After reviewing Forero-Arias’ Petition for Writ of Habeas Corpus, Petitioner has shown
18 sufficient likelihood of success on the merits to warrant appointment of counsel.


19 **C. Complexity of Legal Issues**

20 The complexity of immigration and habeas law highlights the potential benefits of appointed
21 counsel in these proceedings. Indeed, the Court of Appeal for the Ninth Circuit has declared that
22 “[w]ith only a small degree of hyperbole, the immigration laws have been deemed second only to the
23 Internal Revenue Code in complexity.” *United States v. Ahumada-Aguilar*, 295 F.3d 943, 950 (9th
24 Cir. 2002). Furthermore, assuming the Court grants the Petition for Writ of Habeas Corpus, there will
25 be a period of supervised release which would involve 8 U.S.C. § 1226’s complex statutory scheme.
26 The Court concludes that the issues presented are sufficiently complex to warrant appointment of
27 counsel, particularly in light of the fact that Petitioner has had no formal legal education or training
28 in the United States. Declaration of Janet Tung, ¶ 16.

1 After reviewing the Petition for Writ of Habeas Corpus and the accompanying declaration, the
2 Court concludes that appointment of counsel is warranted at this time. The motion for appointment
3 of counsel (Docs. # 2) is GRANTED. The Court appoints Federal Defenders, Inc. as Petitioner's
4 counsel in this case.

5 **IT IS SO ORDERED.**

6 DATED: August 14, 2007

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8 **WILLIAM Q. HAYES**
9 United States District Judge

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