

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

GRANT DALE HURLBERT,

Petitioner,

v.

MUNIZ et al.,

Respondent.

Case No. 15cv752 AJB (PCL)

**ORDER DENYING MOTION
FOR APPOINTMENT OF
COUNSEL**

(Doc. 18)

MOTION FOR APPOINTMENT OF COUNSEL

Petitioner requests the Court appoint counsel to assist him in his habeas case because he is inept to handle legal matters. (Doc. 28.)

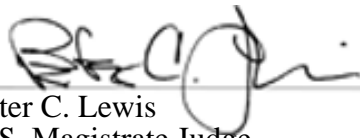
The Sixth Amendment right to counsel does not extend to federal habeas corpus actions by state prisoners. See McCleskey v. Zant, 499 U.S. 467, 495 (1991 (citing Pennsylvania v. Finley, 481 U.S. 551, 555 (1987) (“The right to appointed counsel extends to the first appeal of right, and no further”)); Nevius v. Sumner, 105 F.3d 453, 460 (9th Cir. 1996) (noting that there currently exists no constitutional right to appointment of counsel in habeas proceedings); Chaney v. Lewis, 801 F.2d 1191, 1196 (9th Cir. 1986). However, courts may appoint counsel for financially eligible habeas petitioners seeking relief pursuant to 28 U.S.C. § 2254 where “the interests of justice so require.” 18 U.S.C. § 3006A(a)(2)(B); Chaney, 801 F.2d at 1196. Whether or not to appoint counsel is a matter left to the court’s discretion, unless an evidentiary hearing is necessary. See Knaubert v. Goldsmith, 791 F.2d 722, 728-30 (9th Cir. 1986) (explaining that the

1 interests of justice require appointment of counsel when the court conducts an evidentiary
2 hearing on the petition). “In deciding whether to appoint counsel in a habeas proceeding, the
3 district court must evaluate the likelihood of success on the merits as well as the ability of the
4 petitioner to articulate his claims pro se in light of the complexity of the legal issues involved.”
5 Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983).

6 Here, Petitioner has been able to articulate his habeas claims to this Court. He also has
7 not shown that he is likely to be successful on the merits. Thus, Petitioner’s motion for
8 appointment of counsel is hereby DENIED.

9 IT IS SO ORDERED.

10 DATE: November 24, 2015

11 
12 Peter C. Lewis
13 U.S. Magistrate Judge
14 United States District Court

15 cc: The Honorable Battaglia
16 All Parties and Counsel of Record

17
18
19
20
21
22
23
24
25
26
27
28