



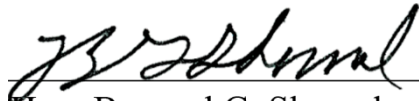
1 collaterally attacking a conviction is discretionary with the court, unless an evidentiary  
2 hearing is necessary, in which case appointment of counsel is mandatory); *see also* Rules  
3 Governing § 2254 Cases, Rule 8(c).

4 Courts consider various factors in exercising their discretion to decide whether  
5 counsel should be appointed. Those factors include the factual or legal complexity of the  
6 petition, the likelihood of success on the merits, and the petitioner’s understanding of  
7 issues and capability to investigate and to present the claims himself. *See LaMere v.*  
8 *Risley*, 827 F.2d 622, 626 (9th Cir. 1987) (no abuse of discretion to deny appointment of  
9 counsel when district court pleadings demonstrated petitioner’s “good understanding of  
10 the issues and the ability to present forcefully and coherently his contentions”). The  
11 appointment of counsel is discretionary when no evidentiary hearing is necessary.  
12 *Terrovona v. Kincheloe*, 912 F.2d 1176, 1177 (9th Cir. 1990); *Knaubert v. Goldsmith*,  
13 791 F.2d 722, 728 (9th Cir. 1986).

14 Here, Petitioner has sufficiently represented himself to date, including the filing of  
15 his Habeas Petition and an opposition to Respondent’s Motion to Dismiss. (ECF Nos. 1,  
16 11.) Petitioner has extensively articulated his arguments and authority, despite his claims  
17 that he struggles with the English language.<sup>1</sup> Moreover, Petitioner’s claims present no  
18 unusual factual or legal complexity. The Court finds that the interests of justice do not  
19 require the appointment of counsel in this case. Petitioner’s motion is **DENIED**.

20 IT IS SO ORDERED.

21  
22 Dated: February 23, 2017

23   
24 Hon. Bernard G. Skomal  
25 United States Magistrate Judge

26  
27 <sup>1</sup> The Court has found no legal authority supporting the notion that lack of proficiency in the English  
28 language is sufficient to warrant appointment of counsel in a habeas proceeding. *See e.g., Ortiz v.*  
*Skolnik*, 2011 WL 2268508, at \*2 (D. Nev. June 7, 2011)(denying motion to appoint counsel based on  
Petitioner’s assertion that he “speaks primarily Spanish and needs an interpreter for legal proceedings.”)