

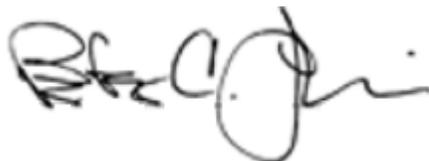
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2 is a matter left to the court’s discretion, unless an evidentiary hearing is necessary. *See*
3 *Knaubert v. Goldsmith*, 791 F.2d 722, 728-30 (9th Cir. 1986) (explaining that the
4 interests of justice require appointment of counsel when the court conducts an evidentiary
5 hearing on the petition).

6 A court’s discretion to appoint counsel may be exercised only under “exceptional
7 circumstances.” *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991). “A finding of
8 exceptional circumstances requires an evaluation of both ‘the likelihood of success on the
9 merits and the ability of the petitioner to articulate his claims pro se in light of the
10 complexity of the legal issues involved.’ Neither of these issues is dispositive and both
11 must be viewed together before reaching a decision.” *Id.* (quoting *Wilborn v.*
12 *Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986)).

13 Petitioner argues that he is unable to represent herself in habeas proceedings
14 because he is untrained in the law and his case is legally complicated. (Doc. 17.)
15 However, “[a]ny pro se litigant certainly would be better served with the assistance of
16 counsel.” *Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997) (overruled on other
17 grounds, 154 F.3d 952 (9th Cir. 1998)). But a petitioner is only entitled to appointed
18 counsel if he can show “that because of the complexity of the claims he [is] unable to
19 articulate his positions.” *Rand*, 113 F.3d at 1525. Petitioner has been able to adequately
20 articulate his habeas claims in his Petition. Accordingly, Petitioner’s Motion for
21 Appointment of Counsel is **DENIED** without prejudice.

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23 **IT IS SO ORDERED.**

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25 DATE: August 28, 2017

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Peter C. Lewis
United States Magistrate Judge