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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

William Thornton,		Case No.: 16cv2492 PCL
	Petitioner,	ORDER DENYING MOTION
v.		FOR APPOINTMENT OF
Raythel Fisher et al.,		COUNSEL (Doc. 60.)
	Respondents.	

Petitioner requests that this Court appoint counsel to assist him in his habeas case. (Doc. 60.) 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

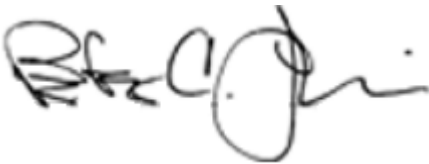
1 a matter left to the court’s discretion, unless an evidentiary hearing is necessary. See
2 Knaubert v. Goldsmith, 791 F.2d 722, 728-30 (9th Cir. 1986) (explaining that the interests
3 of justice require appointment of counsel when the court conducts an evidentiary hearing
4 on the petition).

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

12 Petitioner argues that he is unable to represent herself in habeas proceedings
13 because he is untrained in the law and his case is legally complicated. (Doc. 60.)
14 However, “[a]ny pro se litigant certainly would be better served with the assistance of
15 counsel.” Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997) (overruled on other
16 grounds, 154 F.3d 952 (9th Cir. 1998)). But a petitioner is only entitled to appointed
17 counsel if he can show “that because of the complexity of the claims he [is] unable to
18 articulate his positions.” Rand, 113 F.3d at 1525. Petitioner has been able to adequately
19 articulate his habeas claims in his Petition. Accordingly, Petitioner’s Motion for
20 Appointment of Counsel is DENIED without prejudice.

21 IT IS SO ORDERED.

22 DATE: June 21, 2018

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Peter C. Lewis
United States Magistrate Judge