

IN THE UNITED STATES DISTRICT COURT  
 FOR THE DISTRICT OF DELAWARE

DAVID JENKINS,	)	
	)	
Petitioner,	)	
	)	
v.	)	Civ. No. 11-69-SLR
	)	
PHIL MORGAN, Warden,	)	
and ATTORNEY GENERAL	)	
OF THE STATE OF	)	
DELAWARE,	)	
	)	
Respondents.	)	

**MEMORANDUM ORDER**

At Wilmington this ~~7<sup>th</sup>~~ <sup>11<sup>th</sup></sup> day of February, 2013;

IT IS ORDERED that petitioner David Jenkins' motion for representation by counsel (D.I. 19) is **DENIED** without prejudice to renew, for the reasons that follow:

1. It is well-settled that a petitioner does not have an automatic constitutional or statutory right to representation in a federal habeas proceeding. *See Coleman v. Thompson*, 501 U.S. 722, 752 (1991); *Reese v. Fulcomer*, 946 F.2d 247, 263 (3d Cir. 1991); *United States v. Roberson*, 194 F.3d 408, 415 n.5 (3d Cir. 1999). Nevertheless, a court may seek representation by counsel for a petitioner who demonstrates "special circumstances indicating the likelihood of substantial prejudice to [petitioner] resulting . . . from [petitioner's] probable inability without such assistance to present the facts and legal issues to the court in a complex but arguably meritorious case." *See Tabron v. Grace*, 6 F.3d 147, 154 (3d Cir. 1993)(citing *Smith-Bey v. Petsock*, 741 F.2d 22, 26 (3d Cir. 1984); 18 U.S.C. § 3006A (a)(2)(B)(representation by counsel may be provided when a court determines that the "interests of justice so require").

2. Here, petitioner requests representation by counsel because he is “at a loss” on how to proceed; believes appointing counsel would be in his best interest; and believes counsel would be in a better position to file a certificate of appealability in this court or in the Third Circuit. However, after viewing these reasons in conjunction with petitioner’s other filings in this case, the court concludes that the interests of justice do not require representation by counsel at this time. It also does not appear that expert testimony will be necessary or that the ultimate resolution of the petition will depend upon credibility determinations.

  
UNITED STATES DISTRICT JUDGE