


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

FILED
U.S. DISTRICT COURT
SAVANNAH DIV.

2016 MAY 26 PM 4:14

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ROOSEVELT P. BROWN JR.,)
)
 Petitioner,)
)
v.)
)
CLAY TATUM, Warden,)
)
 Respondent.)

Case No. CV415-210

ORDER

The Court recently preliminarily reviewed Roosevelt Brown’s 28 U.S.C. § 2254 petition and required the State to respond to one claim. See doc. 10. But Brown also moves for appointment of counsel (doc. 5), for an evidentiary hearing (doc. 6), and to expand the record (doc. 7). All three motions are **DENIED**.¹

¹ “Rule 8(c) of the Rules Governing § 225[4 Cases] provides that “[i]f an evidentiary hearing is required, the judge shall appoint counsel for a movant who qualifies for the appointment of counsel under 18 U.S.C. § 3006A(g)[.]” *Shepherd v. United States*, 253 F.3d 585, 587 (11th Cir. 2001). Before the hearing stage, however, “federal courts generally appoint counsel in post-conviction proceedings only after a petition for post-conviction relief passes initial evaluation.” *Id.* (citing *Johnson v. Avery*, 393 U.S. 483, 487-88 (1969)). Although Brown’s petition contains one claim that requires an answer, the majority of his claims failed at the preliminary review stage. And that one claim may well follow suit. The Court will not, prior to hearing from respondent, appoint counsel.

SO ORDERED, this 16th day of May, 2016.


UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA

The stage of these proceedings -- before the respondent answers or has filed any motions and supporting documentation -- also makes it premature to hold an evidentiary hearing or expand the record. *See* Rule 7(a) of the Rules Governing Section 2254 Cases (“If the petition is not dismissed, the judge may direct the parties to expand the record. . . .”); Rule 8(a) (“If the petition is not dismissed, the judge must review the answer, any transcripts and records of state-court proceedings, and any materials submitted under Rule 7 to determine whether an evidentiary hearing is warranted.”).