

**IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF ILLINOIS  
SPRINGFIELD DIVISION**

EZRA GAVIN,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 09-3112
	)	
GERARDO ACEVEDO,	)	
	)	
Respondent.	)	

**OPINION**

JEANNE E. SCOTT, U.S. District Judge:

This cause is before the Court on Petitioner's Petition Under 28 U.S.C. § 2254 for a Writ of Habeas Corpus by a Person in State Custody (d/e 3) (Petition). This is the initial consideration of Petitioner's Petition under Rule 4 of the Rules Governing § 2254 Cases. Petitioner also filed a Motion for Appointment of Counsel (d/e 2), which is addressed below.

After a review of the Petition, this Court finds that a summary dismissal is not warranted. Therefore, pursuant to Rule 4, the Court directs the Attorney General for the State of Illinois to respond to Petitioner's Petition. The response shall discuss the merits and the procedural posture of the Petition, i.e. whether Petitioner has exhausted his state remedies

and/or procedurally defaulted any claims. See Rule 5 of the Rules Governing § 2254 Cases.

THEREFORE, the Attorney General for the State of Illinois is ordered to file an answer pursuant to Rule 5 of the Rules Governing 28 U.S.C. § 2254 Cases to Petitioner's Petition for a Writ of Habeas Corpus on or before August 21, 2009, and to provide the Court with a copy of trial transcripts on or before that date. Petitioner is granted 21 days from the time the answer is filed to file a reply.

Petitioner also filed a Motion for Appointment of Counsel. There is no guaranteed right to assistance of counsel in a civil case. DiAngelo v. Illinois Dept. of Public Aid, 891 F.2d 1260, 1262 (7<sup>th</sup> Cir. 1989). The Court has not determined yet whether it must hold a hearing on the Petition. If the Court finds it necessary to hold a hearing, at that time the Court will appoint counsel pursuant to Rule 8 of the Rules Governing 28 U.S.C. § 2254 Cases. THEREFORE, Petitioner's Motion for Appointment of Counsel (d/e 2) is DENIED.

IT IS THEREFORE SO ORDERED.

ENTER: May 22, 2009

FOR THE COURT:

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s/ Jeanne E. Scott  
JEANNE E. SCOTT  
UNITED STATES DISTRICT JUDGE