

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

MARC J. THOMPSON,

Petitioner,

vs.

CIVIL ACTION
No. 12-3016-SAC

DAVID MCKUNE, et al.,

Respondents.

MEMORANDUM AND ORDER

This matter is a petition for habeas corpus filed pursuant to 28 U.S.C. § 2254. By an earlier order, the court directed petitioner to supply a current financial statement. Petitioner submitted the statement, which reflects a current available balance of \$243.07. The court finds the petitioner has sufficient resources to pay the \$5.00 filing fee in this matter and will deny leave to proceed in forma pauperis.

Petitioner also moves for the appointment of counsel. There is no constitutional right to the appointment of counsel in a federal habeas corpus action. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987). Rather, the decision whether to appoint counsel rests in the discretion of the court. *Swazo v. Wyoming Dep't. of Corrections State Penitentiary Warden*, 23 F.3d 332, 333 (10th

Cir. 1994). *See also* 18 U.S.C. § 3006A(a)(2)(B)(the court may appoint counsel in action under § 2254 where "the interests of justice so require").

The court has considered the request and the record and finds the appointment of counsel is not warranted in this action. The motion will be denied.

Finally, the court notes that petitioner is incarcerated in the Lansing Correctional Facility. Prisoners housed in that facility are subject to mandatory electronic filing pursuant to Standing Order 12-01 of the court. Petitioner did not comply with that directive in submitting the financial statement, and the court advises him that future pleadings must be submitted electronically. Future filings that are not submitted electronically may be summarily rejected.

IT IS, THEREFORE, BY THE COURT ORDERED petitioner's motion for leave to proceed in forma pauperis (Doc. 2) is denied. Petitioner is granted to and including March 29, 2012, to submit the \$5.00 filing fee to the clerk of the court.

IT IS FURTHER ORDERED petitioner's motion to appoint counsel (Doc. 3) is denied.

IT IS FURTHER ORDERED petitioner is directed to comply with the provisions of Standing Order 12-01 in all future filings unless permission is granted by the court for cause shown.

A copy of this order shall be transmitted to the petitioner.

IT IS SO ORDERED.

Dated at Topeka, Kansas, this 29th day of February, 2012.

S/ Sam A. Crow
SAM A. CROW
United States Senior District Judge