

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

_____	)	
JOSE GENAO	)	
	)	
Petitioner,	)	
	)	
v.	)	Civil No. 16-11871-JCB
	)	
WARDEN JEFFREY GRONDOLSKY,	)	
	)	
Respondent.	)	
_____	)	

ORDER ON PETITIONER’S RENEWED MOTION FOR APPOINTMENT OF COUNSEL

March 3, 2017

Boal, M.J.

Petitioner Jose Genao, an inmate in custody at FMC Devens, filed a pro se petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 challenging his narcotics and firearm convictions from the District of Rhode Island. See United States v. Genao, 99-CR-105-L (D. RI May 26, 2000). This action was assigned pursuant to the Court’s Program for Random Assignment of Civil Cases to Magistrate Judges. The Court directed service of the petition and denied without prejudice Genao’s motion for appointment of counsel. See Docket No. 7.

The parties consented to Magistrate Judge Jurisdiction. See Docket Nos. 9, 14. In response to the petition, the government argues that Genao is not entitled to re-sentencing. See Docket No. 13. Genao filed a reply to the government’s arguments. See Docket No. 18.

Now pending before the Court is Genao’s renewed motion for appointment of counsel. See Docket No. 15. The Court may appoint legal counsel for financially eligible persons seeking habeas corpus under 28 U.S.C. § 2241 when the Court determines that the “interests of justice so

require.” 18 U.S.C. § 3006A(a)(2). The decision to appoint counsel is discretionary; a habeas defendant has no constitutional or statutory right to appointed counsel. Jackson v. Coalter, 337 F.3d 74, 77 n. 2 (1st Cir. 2003).

With the limited record before it, this Court is unable to determine whether petitioner has a colorable claim. After having reviewed the pleadings and submissions, this Court concludes that the interests of justice require that the Court grant the renewed motion for the limited purpose of determining whether Genao qualifies for federal habeas relief pursuant to 28 U.S.C. § 2241.

Based on the foregoing, it is hereby Ordered that:

1. Pursuant to the provisions of the Criminal Justice Act, Title 18, U.S.C. § 3006A(a)(2)(B) and (c), and the discretion of the Court, petitioner’s Renewed Motion for Appointment Counsel (Docket No. 15) is GRANTED for the limited purpose of determining whether petitioner has a colorable claim.
2. The Office of the Federal Public Defender for the District of Massachusetts is PROVISIONALLY APPOINTED for the purpose of evaluating petitioner’s claims.
3. In addition to respondent’s counsel and the pro se petitioner, the Clerk of Court shall serve a copy of this Order on Miriam Conrad, Federal Public Defender, 51 Sleeper Street, 5th Floor, Boston, MA 02210.

SO ORDERED.

/s/ Jennifer C. Boal  
JENNIFER C. BOAL  
United States Magistrate Judge