

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

STEVEN D. CORREIA,

Petitioner,

v.

Civil Action No. 16-cv-12531-IT

SUPERINTENDENT SEAN MEDEIROS,

Respondent.

ORDER

February 10, 2017

TALWANI, D.J.

For the reasons set forth below, the court denies without prejudice the petitioner's motion for appointment of counsel.

On December 6, 2016, Steven D. Correia ("Correia") filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254. Correia challenges his 1990 convictions for aggravated rape, kidnapping, and armed robbery, arguing that his rights under the Sixth Amendment were violated because the courtroom was closed during jury empanelment. The petition was served and the respondent has until March 31, 2017 to respond to the petition.

Correia also has filed a motion for the appointment of counsel [#10]. Under the Criminal Justice Act ("CJA"), 18 U.S.C. § 3006A, the court may appoint counsel for a "financially eligible" habeas petitioner if "the interests of justice so require." 18 U.S.C. § 3006A(a)(2). In determining whether the interests of justice require the appointment of counsel, the court must examine the totality of the circumstances, considering, *inter alia*, whether the petitioner has presented a colorable claim, the complexity of the legal issues, the intricacy of any factual issues, and the petitioner's ability to represent himself. *See United States v. Gall*, 829 F.3d 64, 72 (1st

Cir. 2016); *United States v. Guadalupe-Quinones*, 65 Fed. Appx. 329, 333 (1st Cir. 2003). In addition, counsel will be appointed for an indigent petitioner if the court conducts an evidentiary hearing. *See* Rule 8(c) of the Rules Governing Section 2254 Cases.

Here, the interests of justice do not require the appointment of CJA counsel at present. Because the respondent has not replied to the petition, the court cannot yet evaluate whether this is an action in which appointment of counsel under the CJA is merited.

Accordingly, the motion for appointment of counsel [#10] is DENIED WITHOUT PREJUDICE. Correia may renew his motion after the respondent has replied to the petition.

SO ORDERED.

/s/ Indira Talwani
Indira Talwani
United States District Judge