

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

DARRELL FREY,

Petitioner,

v.

Case Number: 10-cv-10436
Honorable Lawrence P. Zatkoff

CARMEN PALMER,

Respondent.

**ORDER DENYING WITHOUT PREJUDICE
PETITIONER'S MOTION FOR APPOINTMENT OF COUNSEL**

On February 2, 2010, Petitioner Darrell Frey, a state inmate currently incarcerated at the Michigan Reformatory in Ionia, Michigan, filed a *pro se* petition for a writ of habeas corpus under 28 U.S.C. § 2254, alleging that he is incarcerated in violation of his constitutional rights. Pending before the Court is his “Motion for Appointment of Counsel,” which was filed along with his habeas petition. (Dkt. ## 1 & 3.) For the reasons set forth below, the Court will deny the motion.

The constitutional right to counsel in criminal proceedings provided by the Sixth Amendment does not apply to an application for writ of habeas corpus, which is a civil proceeding. *Cobas v. Burgess*, 306 F.3d 441, 444 (6th Cir. 2002), *cert. denied*, 538 U.S. 984 (2003), *reh. denied*, 539 U.S. 970 (2003). The Court has broad discretion in determining whether counsel should be appointed. *Childs v. Pellegrin*, 822 F.2d 1382, 1384 (6th Cir. 1987). A habeas petitioner may obtain representation at any stage of the case “[w]henver the United States magistrate or the court determines that the interests of justice so require.” 18 U.S.C. § 3006A(a)(2)(B).

In this case, Respondent’s response and the state-court record are not due until September 1, 2010. Once the response and the state-court record are filed, and, after the Court has carefully

reviewed those documents, if the Court determines that appointment of counsel is necessary, then it will do so at that time. Petitioner need not file any further motions regarding this issue.

Accordingly, **IT IS ORDERED** that Petitioner's "Motion for Appointment of Counsel" [Dkt. ## 1 & 3] is **DENIED WITHOUT PREJUDICE**. The Court will reconsider Petitioner's motion if it determines at a later date that appointment of counsel is necessary.

SO ORDERED.

s/Lawrence P. Zatkoff
LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

Dated: March 12, 2010

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on March 12, 2010.

s/Marie E. Verlinde
Case Manager
(810) 984-3290