

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

ALLEN E. PITTMAN,)	CASE NO. 2:16CV13888
)	
Petitioner,)	JUDGE DONALD C. NUGENT
)	
vs.)	MAGISTRATE JUDGE
)	KATHLEEN B. BURKE
DUNCAN MACLAREN,)	
)	
Respondent.)	MEMORANDUM OPINION

This matter comes before the Court upon Petitioner’s request for review (ECF #21) of Magistrate Judge Kathleen B. Burke’s order (ECF #20) denying Petitioner’s request for the appointment of appellate counsel. Petitioner filed a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging the constitutionality of his convictions on October 31, 2016. (ECF #1). On June 2, 2017, Petitioner filed a motion for the appointment of appellate counsel for his habeas corpus petition. (ECF # 10). On August 14, 2017, Magistrate Judge Burke denied Petitioner’s motion for the appointment of appellate counsel (ECF #20), finding that while there is no constitutional right to counsel in federal habeas corpus proceedings, a court may appoint counsel if “the interest of justice so requires.” 18 U.S.C. § 3006A(a)(2)(B); *Mira v. Marshall*, 806 F.2d 636, 638 (6th Cir. 1986); *see also Cobas v. Burgess*, 306 F.3d 441, 444 (6th Cir. 2002). A showing of exceptional circumstances, such as whether petitioner has made a colorable claim but lacks the means to

adequately investigate, prepare, or present the claim, will justify the appointment of appellate counsel in the interest of justice. *See Lemeshko v. Wrona*, 325 F.Supp.2d 778, 787 (E.D. Mich. 2004).

Magistrate Judge Burke found that Petitioner has not shown exceptional circumstances for the appointment of appellate counsel. Further, Magistrate Judge Burke found that Petitioner's claims are straightforward and capable of resolution on the record and no evidentiary hearing is needed. The Court agrees with Magistrate Judge Burke's order and Petitioner makes no arguments that was not addressed by Magistrate Judge Burke. Petitioner's renewed request for the appointment of appellate counsel (ECF #10) is DENIED.

IT IS SO ORDERED



DONALD C. NUGENT
United States District Court

DATED: September 20, 2017