

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

HOSEA L. ROBINSON,)	
)	
Petitioner,)	
)	
v.)	No. 1:21-CV-69 SNLJ
)	
BILL STANGE,)	
)	
Respondent,)	

MEMORANDUM AND ORDER

Before the Court is petitioner’s, “Motion for Summary Judgment or Transfer to the 8th Circuit Court of Appeals,” which this Court interprets as a second motion for reconsideration of the dismissal of petitioner’s application for writ of habeas corpus brought pursuant to 28 U.S.C. § 2254. Petitioner has also filed a motion for appointment of counsel to file an appeal on his behalf and/or to represent him in the Court of Appeals. The Court will deny both post-dismissal motions.

The Court previously denied petitioner’s motion for reconsideration of the dismissal of this action on July 6, 2021. After reviewing the grounds raised by petitioner in the newest motion for reconsideration, the Court will decline to alter or amend the judgment of this Court. The Court concludes that petitioner’s newest motion for reconsideration fails to point to any manifest errors of law or fact, or any newly discovered evidence. Instead, the motion can be said to merely revisit old arguments. Petitioner is therefore not entitled to reconsideration of the dismissal of his petition, and his motion will be denied. To the extent that petitioner is seeking a transfer of this action to the Eighth Circuit his request is denied.¹

¹Petitioner has not filed a notice of appeal in this action. If he wishes to do so he must file a separate document indicating his desire to appeal the dismissal of his application for writ.

Petitioner's motion for appointment of counsel on appeal will also be denied. There is no constitutional or statutory right to appointed counsel in civil cases. *Nelson v. Redfield Lithograph Printing*, 728 F.2d 1003, 1004 (8th Cir. 1984). Similarly, there is no right to appointment of counsel to file an appeal of the denial of a petition for writ of habeas corpus.

In determining whether to appoint counsel, the Court considers several factors, including (1) whether the petitioner has presented non-frivolous allegations supporting his or her prayer for relief; (2) whether the petitioner will substantially benefit from the appointment of counsel; (3) whether there is a need to further investigate and present the facts related to the petitioner's allegations; and (4) whether the factual and legal issues presented by the action are complex. *See Johnson v. Williams*, 788 F.2d 1319, 1322-23 (8th Cir. 1986); *Nelson*, 728 F.2d at 1005.

As noted in the Memorandum and Order entered on June 14, 2021, petitioner has yet to exhaust his state court remedies with regards to his application for writ of habeas corpus. Therefore, his petition brought pursuant to 28 U.S.C. § 2254 is not yet ripe for review in this Court. As such, the Court will decline to appoint counsel to file an appeal of the denial of petitioner's application for writ and/or to represent petitioner in the Court of Appeals.

If, or when, petitioner files a notice of appeal on his own behalf, he may renew his motion for appointment of counsel *in the Eighth Circuit Court of Appeals*.

Accordingly,

IT IS HEREBY ORDERED that petitioner's "Motion for Summary Judgment or Transfer to the 8th Circuit Court of Appeals," which this Court interprets as a second motion for reconsideration of the dismissal of petitioner's application for writ of habeas corpus brought pursuant to 28 U.S.C. § 2254, [Doc. #16] is **DENIED**.

IT IS FURTHER ORDERED that petitioner's request to transfer this action to the Eighth Circuit Court of Appeals is **DENIED**.

IT IS FURTHER ORDERED that petitioner's motion for appointment of counsel to file an appeal on his behalf or to represent him in the Court of Appeals [Doc. #15] is **DENIED**.

IT IS FURTHER ORDERED that the Court shall not accept any additional motions or pleadings in this action, save for a Notice of Appeal.

IT IS FURTHER ORDERED that no certificate of appealability shall issue.

Dated this 19th day of July, 2021.



STEPHEN N. LIMBAUGH, JR.
SENIOR UNITED STATES DISTRICT JUDGE