

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

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|----------------|---|--------------------------------|
| RICHARD HARPER |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | Case No. 4:12-CV-1726 SNLJ-NAB |
| |) | |
| TROY STEELE, |) | |
| |) | |
| Respondent. |) | |

MEMORANDUM AND ORDER
ON PETITIONER’S MOTION TO APPOINT COUNSEL

Presently before the Court is Petitioner’s Motion to Appoint Counsel. [[Doc. 4](#)] Respondent did not respond to the motion. Having fully considered the arguments set forth by Petitioner, the Court denies the motion.

Discussion

There is no constitutional right to appointment of counsel in habeas corpus proceedings. *Hoggard v. Purkett*, 29 F.3d 469, 471 (8th Cir. 1994). In *Abdullah v. Norris*, 18 F.3d 571 (8th Cir. 1994), the Eighth Circuit Court of Appeals discussed the circumstances in which the appointment of counsel is appropriate. The court stated:

A magistrate judge or district judge may appoint counsel for a habeas petitioner if “the interests of justice so require.” 18 U.S.C.A. § 3006A(a)(2), (a)(2)(B) (West Supp. 1993). If a district court conducts an evidentiary hearing on the petition, the interests of justice require that the court appoint counsel for the petitioner. *See* Rule 8(c), Rules Governing Section 2254 Cases in the United States District Courts (hereinafter “Habeas Rules”). If no evidentiary hearing is necessary, the appointment of counsel is discretionary.

When exercising its discretion, a district court should first determine whether a pro se habeas petitioner has presented a nonfrivolous claim. *Battle v. Armontrout*, 902 F.2d 701, 702 (8th Cir. 1990). If the petitioner has presented only claims that are frivolous or clearly without merit, the district court should dismiss the case on the merits without appointing counsel. *See* Habeas Rule 4. If the petitioner has

