

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

ROBERT HARDEN, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 FRED BRITTEN, Warden, and )  
 ROBERT HOUSTON, Director of the )  
 Department of Corrections, )  
 )  
 Respondents. )

CASE NO. 4:11CV3084

MEMORANDUM  
AND ORDER

This matter is before the court on Petitioner’s Motion to Appoint Counsel. (Filing No. [16](#).) As this court has previously informed Petitioner, “[t]here is neither a constitutional nor statutory right to counsel in habeas proceedings; instead, [appointment] is committed to the discretion of the trial court.” [McCall v. Benson, 114 F.3d 754, 756 \(8th Cir. 1997\)](#). As a general rule, counsel will not be appointed unless the case is unusually complex or the petitioner’s ability to investigate and articulate the claims is unusually impaired or an evidentiary hearing is required. See, e.g., [Morris v. Dormire, 217 F.3d 556, 558-59 \(8th Cir. 2000\)](#), *cert. denied*, [531 U.S. 984 \(2000\)](#); [Hoggard v. Purkett, 29 F.3d 469, 471 \(8th Cir. 1994\)](#) (citations omitted). See also Rule 8(c) of the [Rules Governing Section 2254 Cases in the United States District Courts](#) (requiring appointment of counsel if an evidentiary hearing is warranted.) The court has carefully reviewed the record and finds that there is no need for the appointment of counsel at this time.

Also pending is Petitioner’s Motion for Leave to Supplement Habeas Corpus Information. (Filing No. [17](#).) In its entirety, this Motion “request[s] the Court to Allow the Motion for Leave to Supplement Habeas Corpus Information to pass and issue an order stating so Petitioner may app to his claims of the Habeas Corpus.” ([Id.](#)) Simply put, the

court cannot tell what, if any, relief Petitioner seeks in this Motion. As such, the Motion is denied without prejudice to reassertion in the event that Petitioner wishes to re-file or otherwise clarify the Motion.

IT IS THEREFORE ORDERED that:

1. Petitioner's Motion to Appoint Counsel (Filing no. [16](#)) is denied; and
2. Petitioner's Motion for Leave to Supplement Habeas Corpus Information (filing no. [17](#)) is denied without prejudice to reassertion as set forth in this Memorandum and Order.

DATED this 7<sup>th</sup> day of September, 2011.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge

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