

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

RICHARD A. GRISWOLD,)	
)	
Petitioner,)	8:10CV55
)	
v.)	
)	
TECUMSEH STATE CORRECTIONAL INSTITUTION,)	MEMORANDUM AND ORDER
)	
)	
Respondent.)	
)	

This matter is before the Court on petitioner's motion to appoint counsel (Filing No. [10](#)), motion for leave to proceed in forma pauperis ("IFP") (Filing No. [12](#)) and motion for status of IFP motion (Filing No. [13](#)).

"[T]here is neither a constitutional nor statutory right to counsel in habeas proceedings; instead, [appointment of counsel] is committed to the discretion of the trial court." [McCall v. Benson, 114 F.3d 754, 756 \(8th Cir. 1997\)](#) (citations omitted). 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). Upon review of the pleadings and petitioner's motion, there is no need for the appointment of counsel at this time.

In addition, petitioner has already paid the \$5.00 filing fee in this matter. (See Docket Sheet.) Therefore, his motion for leave to proceed IFP and motion for status of IFP motion will be denied as moot.

IT IS ORDERED:

1. Petitioner's motion to appoint counsel (Filing No. [10](#)) is denied.
2. Petitioner's motion for leave to proceed IFP (Filing No. [12](#)) and motion for status of IFP motion (Filing No. [13](#)) are denied as moot.

DATED this 19th day of April, 2010.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court

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