

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

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

Petitioner has filed a petition for writ of habeas corpus under [28 U.S.C. § 2254](#) (Filing No. [1](#)), a motion for leave to proceed in forma pauperis ("IFP") (Filing No. [2](#)), and a copy of his Prisoner Trust Account Statement (Filing No. [4](#)).

Habeas corpus cases attacking the legality of a person's confinement require the payment of a \$5.00 fee. [28 U.S.C. § 1914\(a\)](#). The record indicates that petitioner paid the \$5.00 filing fee on February 24, 2010 (See Docket Sheet). Therefore, petitioner's motion for leave to proceed IFP is moot.

Petitioner has also filed a motion to appoint counsel. (Filing No. [3](#)). "[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. Accordingly,

IT IS ORDERED:

1. Petitioner's motion for leave to proceed IFP (Filing No. [2](#)) is denied as moot.
2. Petitioner's motion to appoint counsel (Filing No. 3) is denied.

DATED this 1st day of March, 2010.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court