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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

BRYAN MCMILLAN, )  
 )  
 Petitioner, )  
 )  
 vs. )  
 )  
 NEVADA 8<sup>TH</sup> DISTRICT )  
 COURT *et al.*, )  
 )  
 Respondents. )  
 /

2:11-cv-01482-KJD-PAL

**ORDER**

This is a pro se petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254 (ECF #18).

Petitioner has filed a motion for the appointment of counsel (ECF #27). There is no constitutional right to appointed counsel for a federal habeas corpus proceeding. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir.1993). The decision to appoint counsel is generally discretionary. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir.1986), cert. denied, 481 U.S. 1023 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), cert. denied, 469 U.S. 838 (1984). However, counsel must be appointed if the complexities of the case are such that denial of counsel would amount to a denial of due process, and where the petitioner is a person of such limited education as to be incapable of fairly presenting his claims. *See Chaney*, 801 F.2d at 1196; *see also Hawkins v. Bennett*, 423 F.2d 948 (8th Cir.1970). The petition on file in this action appears sufficiently

1 clear in presenting the issues that petitioner wishes to raise. Counsel is not justified, and the motion is  
2 denied.

3                   Petitioner shall respond to the motion to dismiss (ECF #20) within **fourteen (14) days**  
4 from the date of entry of this order.

5                   **IT IS THEREFORE ORDERED** that petitioner's motion for appointment of counsel  
6 (ECF #27) is **DENIED**.

7                   DATED: April 29, 2013



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11                   UNITED STATES DISTRICT JUDGE  
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