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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

CHARLES ANTHONY SUMMERS,

Petitioner,

Case No. 3:09-CV-000674-LRH-RAM

vs

ORDER

E.K. McDANIELS, *et al*,

Respondents. /

This is an action on a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, brought by Charles Summers appearing *pro se*. The matter has been fully litigated, with an answer and reply brief on file. Petitioner moves the court to “ask a question” (ECF No. 19) and for appointment of counsel (ECF No. 21). Both motions shall be denied.

In the motion to ask a question, petitioner asks why the Nevada Supreme Court reached a particular factual conclusion in its opinion affirming his conviction. This is a question that this Court cannot answer as it is outside the Court’s knowledge and jurisdiction. The findings of the Nevada Supreme Court are just that. Such a query must be directed to the court making the finding.

As for the motion for appointment of counsel, 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

1 presenting his claims. See *Chaney*, 801 F.2d at 1196; see also *Hawkins v. Bennett*, 423 F.2d 948 (8th
2 Cir. 1970). The claims in this case are not especially complex. Moreover, petitioner has already
3 presented his own defense to the motion to dismiss and a reply brief to the answer. The matter is ready
4 for review on its merits and appointment of counsel at this juncture is unnecessary and would be
5 pointless.

6 **IT IS THEREFORE ORDERED** that petitioner's motions (ECF Nos. 19 and 21) are **DENIED**.

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8 DATED this 23rd day of February, 2011.

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LARRY R. HICKS
UNITED STATES DISTRICT JUDGE