

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MULBAH KEITA,		:	
	Petitioner,	:	20-CV-6154 (JMF)
		:	
-v-		:	<u>ORDER</u>
		:	
LEROY FIELDS,		:	
	Respondent.	:	
		:	
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JESSE M. FURMAN, United States District Judge:

On October 9, 2020, the Court received Petitioner’s second application for counsel. *See* ECF No. 12. In determining whether to grant an application for counsel, the Court must consider “the merits of [petitioner’s] case, the [petitioner’s] ability to pay for private counsel, his efforts to obtain a lawyer, the availability of counsel, and the [petitioner’s] ability to gather the facts and deal with the issues if unassisted by counsel.” *Cooper v. A. Sargenti Co., Inc.*, 877 F.2d 170, 172 (2d Cir. 1989) (per curiam). As a threshold matter, in order to qualify for counsel Petitioner must demonstrate that his claim has substance or a likelihood of success. *See Hodge v. Police Officers*, 802 F.2d 58, 60-61 (2d Cir. 1986). In reviewing a request for counsel, the Court must be cognizant of the fact that volunteer attorney time is a precious commodity and, thus, should not grant a request for counsel indiscriminately. *See Cooper*, 877 F.2d at 172.

Having reviewed Petitioner’s initial petition, Respondent’s response papers, and the record from Petitioner’s state-court proceedings, the Court concludes that appointment of counsel would not be in the interests of justice and therefore DENIES Petitioner’s application.


As a courtesy, however, the Court hereby EXTENDS the deadline for Petitioner to submit his reply brief until **November 30, 2020**.

As Petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue. *See* 28 U.S.C. § 2253(c); *see also Gonzalez v. Thaler*, 565 U.S. 134, 143 n.5 (2012); *Matthews v. United States*, 682 F.3d 180, 185 (2d Cir. 2012). In addition, the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith, and *in forma pauperis* status is therefore denied. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

The Clerk of the Court is directed to terminate ECF No. 12 and to mail a copy of this Order to Petitioner.

SO ORDERED.

Dated: October 13, 2020  
New York, New York

  
— JESSE M. FURMAN —  
United States District Judge