

United States District Court  
Southern District of Texas

**ENTERED**

July 28, 2020

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

TOMMY ALLEN O'NEAL,

Plaintiff,

VS.

JOHN MCDANIEL,

Defendant.

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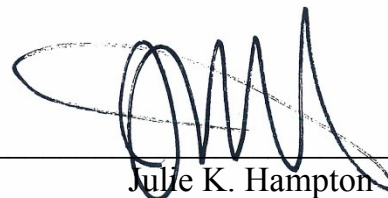
CIVIL ACTION NO. 2:20-CV-176

**OPINION AND ORDER DENYING MOTION FOR APPOINTMENT OF COUNSEL**

Petitioner requests appointment of counsel (D.E. 5). There is no constitutional right to counsel in federal habeas proceedings. *Johnson v. Hargett*, 978 F.2d 855 (5th Cir. 1992). Rule 8 of the Rules Governing § 2254 Cases requires that counsel be appointed if the habeas petition raises issues which mandate an evidentiary hearing. Screening has not been completed in this case and service of process has not been ordered. At this point there are no issues which mandate an evidentiary hearing.

An evidentiary hearing will be scheduled and counsel will be assigned *sua sponte* if there are issues which mandate a hearing. Moreover, counsel may be assigned if discovery is ordered and issues necessitating the assignment of counsel are evident. Rule 6(a) of the Rules Governing § 2254 Cases; *Thomas v. Scott*, 47 F.3d 713, 715 n. 1 (5th Cir. 1995). Accordingly, petitioner's motion for appointment of counsel (D.E. 5) is **DENIED** without prejudice.

ORDERED this 27th day of July, 2020.



Julie K. Hampton  
United States Magistrate Judge