
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

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| <p>HICKORY WESLEY MCCOY, Petitioner, v. UNITED STATES OF AMERICA, Respondent.</p> | <p>MEMORANDUM DECISION AND ORDER DENYING WITHOUT PREJUDICE PETITIONER'S MOTION TO APPOINT COUNSEL</p> <p>Civil Case No. 2:16-CV-487 TS Criminal Case No. 2:12-CR-218 TS</p> <p>District Judge Ted Stewart</p> |
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This matter is before the Court on Petitioner's Motion to Appoint Counsel. Petitioner seeks the appointment of counsel to assist in his recently filed motion under 28 U.S.C. § 2255.

“[T]here is no right to counsel in collateral proceedings.”¹ Only when an evidentiary hearing is required is a defendant entitled to counsel.² The decision to appoint counsel is left to the sound discretion of the Court.³ “In determining whether to appoint counsel, the district court should consider a variety of factors, including the merits of the litigant's claims, the nature of the factual issues raised in the claims, the litigant's ability to present his claims, and the complexity of the legal issues raised by the claims.”⁴ Considering these factors, the Court declines to appoint counsel at this time.

¹ *United States v. Prows*, 448 F.3d 1223, 1229 (10th Cir. 2006); *see also Pennsylvania v. Finley*, 481 U.S. 551, 555 (1990) (stating that “the right to appointed counsel extends to the first appeal of right, and no further”).

² Rule 8(c) of the Rules Governing § 2255 Proceedings for the United States District Courts.

³ *Engberg v. Wyoming*, 265 F.3d 1109, 1122 (10th Cir. 2001).

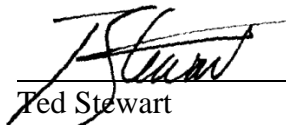
⁴ *Williams v. Meese*, 926 F.2d 994, 996 (10th Cir. 1991).

It is therefore

ORDERED that Petitioner's Motion to Appoint Counsel (Docket No. 2) is DENIED
WITHOUT PREJUDICE.

DATED this 9th day of June, 2016.

BY THE COURT:



Ted Stewart
United States District Judge