IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH

RAYMOND CHARLES SCHAVEY, Petitioner, v. UNITED STATES OF AMERICA, Respondent.	MEMORANDUM DECISION AND ORDER DENYING WITHOUT PREJUDICE PETITIONER'S MOTION TO APPOINT COUNSEL Civil Case No. 2:17-CV-379 TS Criminal Case No. 2:16-CR-63 TS District Judge Ted Stewart

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]

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[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. Wyo.,* 265 F.3d 1109, 1122 (10th Cir. 2001).

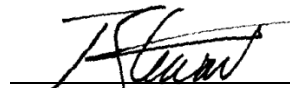[4] *Williams v. Meese*, 926 F.2d 994, 996 (10th Cir. 1991).

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Considering these factors, the Court declines to appoint counsel at this time. However, the Court will grant Petitioner additional time to file his reply brief based on his representation that prison lockdowns have interfered with his ability to research the issues raised in his § 2255 motion.

It is therefore

ORDERED that Petitioner's Motion to Appoint Counsel (Docket No. 4) is DENIED WITHOUT PREJUDICE. Petitioner's reply brief is due by August 7, 2017.

DATED this 5th day of July, 2017.

BY THE COURT:

Ted Stewart
United States District Judge