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THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH

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THOMAS RAY GURULE,  
Movant,

v.

UNITED STATES OF AMERICA,  
Respondent.

**MEMORANDUM DECISION AND  
ORDER DENYING MOTION FOR  
APPOINTMENT OF COUNSEL**

Case No. 2:21-cv-00344-DN  
(Criminal No. 2:04-cr-209-PGC-1)

District Judge David Nuffer

Movant Thomas Ray Gurule seeks the appointment of counsel in this case brought under [28 U.S.C. § 2255](#) (“Motion”).<sup>1</sup> There is no constitutional or statutory right to the appointment of counsel in § 2255 proceedings, unless an evidentiary hearing is held.<sup>2</sup> Nevertheless, counsel may be appointed when “the interests of justice so require” for a “financially eligible person” seeking relief under § 2255.<sup>3</sup>

After review and consideration of Mr. Gurule’s filings, justice does not require the appointment of counsel. Briefing on Mr. Gurule’s § 2255 Motion is now complete.<sup>4</sup> Mr. Gurule has shown an “ability to investigate the facts necessary for [the] issues and to articulate them in a

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<sup>1</sup> Motion for Appointment of Counsel, [docket no. 3](#), filed June 2, 2021.

<sup>2</sup> [Paul v. United States](#), 2006 WL 314563, \*1 (D. Utah Feb. 9, 2006); Rules Governing Section 2255 Proceedings for the United States District Courts 8(c).

<sup>3</sup> [18 U.S.C. § 3006A\(a\)\(2\)\(B\)](#).

<sup>4</sup> Motion for Authorization to File a Second or Successive Motion to Vacate, Set Aside or Correct Sentence Under 28 U.S.C. § 2255 by a Prisoner in Federal Custody (“§ 2255 Motion”), [docket no. 1](#), filed Nov. 27, 2019; United States’ Response to Motion to Vacate Under 28 U.S.C. § 2255, [docket no. 5](#), filed July 14, 2021; Reply to Government’s Motion to Respond to Vacate, Set Aside, or Correct Sentence to 28 U.S.C. § 2255, [docket no. 12](#), filed Nov. 8, 2021.

meaningful fashion.”<sup>5</sup> The issues Mr. Gurule raises are also “straightforward and not so complex as to require counsel’s assistance.”<sup>6</sup> And an evidentiary hearing on the § 2255 Motion will be unnecessary.

**ORDER**

THEREFORE, IT IS HEREBY ORDERED that Mr. Gurule’s Motion for Appointment of Counsel<sup>7</sup> is DENIED.

Signed November 18, 2021.

BY THE COURT



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David Nuffer  
United States District Judge

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<sup>5</sup> *United States v. Lewis*, No. 97-3135-SAC, 1998 WL 1054227, \*3 (D. Kan. Dec. 9, 1998); *Oliver v. United States*, 961 F.2d 1339, 1343 (7th Cir. 1992).

<sup>6</sup> *Lewis*, 1998 WL 1054227, \*3; *Oliver*, 961 F.2d at 1343.

<sup>7</sup> Docket no. 3, filed June 2, 2021.