

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DAVID RICHARD DANCE,)
Petitioner,) CASE NO. C17-0156RSM
v.)
UNITED STATES OF AMERICA,) ORDER DENYING MOTION TO
Respondent.) APPOINT COUNSEL

This matter comes before the Court on Petitioner's Motion to Appoint Counsel. Dkt. #2. Petitioner filed a Motion to Vacate, Set Aside or Correct Sentence pursuant to 28 U.S.C. § 2255 on February 2, 2017. Dkt. #1. The motion has been served on the government and the Court currently awaits a response. *See* Dkt. #5. In his motion for appointed counsel, Petitioner states that he is seeking counsel to assist with his habeas petition because he is untrained in the law, he is in custody, and he believes his claims are meritorious. *Id.*

In a case brought under 28 U.S.C. § 2255, a district court may appoint counsel in the “interest of justice”. 18 U.S.C. § 3006A(a)(2)(B); *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983). “In deciding whether to appoint counsel in a habeas proceeding, the district court must evaluate the likelihood of success on the merits as well as the ability of the petitioner to articulate his claims *pro se* in light of the complexity of the legal issues involved.” *Weygandt*,

**ORDER
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1 718 F.2d at 954. The Court does not find that justice requires the appointment of counsel at
2 this time.

3 First, the issues presented in Mr. Dance's motion are not particularly complex. *See* Dkt.
4 #1-1 (alleging several bases for his claim of ineffective assistance of counsel). Further, Mr.
5 Dance has submitted a 42-page memorandum in support of his petition, along with numerous
6 supporting exhibits, demonstrating that he is able to effectively articulate his claims. *Id.* In
7 addition, at this early stage of the litigation, there is no record before the Court that would
8 allow it to adequately examine whether Mr. Dance's claims have merit.

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10 Accordingly, the Court hereby finds and ORDERS that Petitioner's Motion to Appoint
11 Counsel (Dkt. #2) is DENIED without prejudice. This Order does not preclude Petitioner from
12 re-filing his motion once a factual record pertaining to his claims has been more fully
13 developed.

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15 DATED this 24th day of February, 2017.

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19 RICARDO S. MARTINEZ
20 CHIEF UNITED STATES DISTRICT JUDGE
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