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4 UNITED STATES DISTRICT COURT  
5 WESTERN DISTRICT OF WASHINGTON  
6 AT TACOMA

7 CHARLES DENNIS HAWKINS,

8 Petitioner,

9 v.

10 MAGGIE MILLER-STOUT,

11 Respondent.

CASE NO. C12-5477 RJB-KLS

ORDER DENYING PETITIONER'S  
MOTION FOR APPOINTMENT OF  
COUNSEL

12 Before the Court is Petitioner's motion for the appointment of counsel. ECF No. 23.

13 Having carefully reviewed the motion and balance of the record, the Court finds the motion shall  
14 be denied.

15 **DISCUSSION**


16 There is no right to have counsel appointed in cases brought under 28 U.S.C. §2254,  
17 unless an evidentiary hearing is required or such appointment is "necessary for the effective  
18 utilization of discovery procedures." See *McCleskey v. Zant*, 499 U.S. 467, 495 (1991); *United*  
19 *States v. Duarte-Higareda*, 68 F.3d 369, 370 (9<sup>th</sup> Cir. 1995); *United States v. Angelone*, 894 F.2d  
20 1129, 1130 (9<sup>th</sup> Cir. 1990); *Weygandt v. Look*, 718 F.2d 952, 954 (9<sup>th</sup> Cir. 1983); Rules  
21 Governing Section 2254 Cases in the United States District Courts 6(a) and 8(c). The Court also  
22 may appoint counsel "at any stage of the case if the interest of justice so require." *Weygandt*,  
23 718 F.2d at 754. In deciding whether to appoint counsel, however, the Court "must evaluate the  
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1 likelihood of success on the merits as well as the ability of the petitioner to articulate his claims  
2 pro se in light of the complexity of the legal issues involved.” *Id.*

3       Petitioner has not requested that he be allowed to conduct discovery in this matter, nor  
4 does the Court find good cause for granting him leave to do so at this stage of the proceedings.  
5 *See* Rule Governing Section 2254 Cases in the United States District Courts 6(a). Petitioner has  
6 not shown that his particular conditions of confinement are such that “the interests of Justice”  
7 require appointment of counsel. In addition, the Court has not determined an evidentiary hearing  
8 will be required in this case, nor does it appear one is needed at this point. *See* Rule Governing  
9 Section 2254 Cases in the United States District Courts 8(c). Under separate Report and  
10 Recommendation, the undersigned is recommending that the Court transfer the petition to the  
11 Ninth Circuit Court of Appeals as a second or successive petition, pursuant to Ninth Circuit Rule  
12 22-3(a), and administratively close the file.

13       Accordingly, petitioner’s motion for the appointment of counsel (ECF No. 23) is  
14 **DENIED.** The Clerk shall send a copy of this Order to Petitioner and to counsel for Respondent.

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16       DATED this 19th day of November, 2012.

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19       Karen L. Strombom  
20       United States Magistrate Judge