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2
3 UNITED STATES DISTRICT COURT
4 WESTERN DISTRICT OF WASHINGTON
5 AT TACOMA

6 AARON HAHN,

7 Petitioner,

8 v.

9 STEVE SINCLAIR,

10 Respondent.

No. C13-5263 RBL/KLS

ORDER DENYING PETITIONER'S
MOTION FOR APPOINTMENT OF
COUNSEL

11 Before the Court is Petitioner's motion for the appointment of counsel. ECF No. 21.
12 Respondent opposes the motion. ECF No. 22. Petitioner's motion is premature and will be
13 denied.
14

15 **BACKGROUND**

16 On April 4, 2013, Petitioner Aaron Hahn, a Washington State prisoner, filed a petition for
17 writ of habeas corpus under 28 U.S.C. § 2254. ECF No. 13. On August 1, 2013, the Court
18 directed Respondent to file an answer to the petition within 45 days. ECF No. 14. Mr. Hahn
19 now files a motion for appointment of counsel to assist him in the habeas proceeding. ECF No.
20 21.

21 **DISCUSSION**

22 There is no right to the appointment of counsel in a non-capital case brought under 28
23 U.S.C. § 2254 unless an evidentiary hearing is required or unless such appointment is necessary
24 for the effective use of discovery procedures. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987);
25 *United States v. Duarte-Higareda*, 68 F.3d 369, 370 (9th Cir. 1995); *Bonin v. Vasquez*, 999 F.3d
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ORDER - 1

1 425, 429 (9th Cir. 1993); *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983); Rules Governing
2 Section 2254 Cases 6(a) and 8(c). The Court has discretion under 18 U.S.C. § 3006(A) to
3 appoint counsel “at any stage of the case if the interests of justice so require.” *Weygandt*, 718
4 F.2d at 954.

5 Respondent has not yet filed an answer and the state-court record, so it is premature to
6 decide at this point whether Mr. Hahn is or is not entitled to an evidentiary hearing in his case,
7 and it is equally premature to decide at this point whether there will be occasion for him to use
8 the discovery process. If the Court later determines an evidentiary hearing is necessary, the
9 Court will revisit this issue. Therefore, Petitioner’s motion will be denied without prejudice to
10 his ability to renew the motion in the event the Court orders an evidentiary hearing.

11 Accordingly, it is **ORDERED**:

12 (1) Petitioner’s motion for the appointment of counsel (ECF No. 22) is **denied**
13 **without prejudice.**

14 (2) The Clerk is directed to send a copy of this Order to Petitioner and counsel for
15 Respondent.

16 **DATED** this 28th day of August, 2013.

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20 Karen L. Strombom
21 United States Magistrate Judge
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