HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MICHAEL W KOCH,

Petitioner,

v.

J THOMAS,

Respondent.

CASE NO. C14-5046RBL

ORDER

THIS MATTER is before the Court on Petitioner Michael Koch's Motion for Court-Appointed Counsel to represent him in this 28 U.S.C. § 2255 habeas action. [Dkt. # 34].

In exceptional circumstances, the court may ask an attorney to represent any person unable to afford counsel under 28 U.S.C. § 1915(e)(1). *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984). To find exceptional circumstances, the court must evaluate the likelihood of success on the merits and the ability of the petitioner to articulate the claims *pro se* in light of the complexity of the legal issues involved. *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983).

Koch has not shown any sort of exception circumstances in support of his Motion for Court-Appointed Counsel. The Court has already denied [Dkt. # 33] Koch's untimely and unpersuasive Rule 60 "fraud on the court" Motion [Dkt. # 29] seeking to vacate his 2005 murder conviction. The Motion to appoint counsel is DENIED. The Matter is CLOSED.

Koch has failed to make "a substantial showing of a denial of a constitutional right, and the Court will not issue a Certificate of Appealability.

IT IS SO ORDERED.

Dated this 7th day of January, 2020.

Ronald B. Leighton
United States District Judge