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8 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
9 AT TACOMA

10 REX L POPE,

11 Petitioner,

12 v.

13 JEFFREY A UTTECHT,

14 Respondent.

CASE NO. C14-5497 BHS-KLS

ORDER DENYING PETITIONER'S  
MOTION FOR APPOINTMENT OF  
COUNSEL

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16 This matter is before the Court on Mr. Pope's petition for a writ of habeas corpus that he  
17 filed pursuant to 28 U.S.C. §2254. Petitioner asks for appointment of counsel. Dkt. 9. The  
18 Court, having reviewed petitioner's motion, hereby finds and ORDERS as follows:

19 There is no right to have counsel appointed in cases brought under 28 U.S.C. §2254,  
20 unless an evidentiary hearing is required or such appointment is "necessary for the effective  
21 utilization of discovery procedures." See *McCleskey v. Zant*, 499 U.S. 467, 495 (1991); *United*  
22 *States v. Duarte-Higareda*, 68 F.3d 369, 370 (9<sup>th</sup> Cir. 1995); *United States v. Angelone*, 894 F.2d  
23 1129, 1130 (9<sup>th</sup> Cir. 1990); *Weygandt v. Look*, 718 F.2d 952, 954 (9<sup>th</sup> Cir. 1983); Rules  
24 Governing 28 U.S.C. §2254 Cases in the United States District Courts 6(a) and 8(c). The Court

1 also may appoint counsel “at any stage of the case if the interest of justice so require.”  
2 *Weygandt*, 718 F.2d at 754. In deciding whether to appoint counsel, however, the Court “must  
3 evaluate the likelihood of success on the merits as well as the ability of the petitioner to articulate  
4 his claims pro se in light of the complexity of the legal issues involved.” *Id.*

5 Petitioner has not requested that he be allowed to conduct discovery in this matter, nor  
6 does it appear at this time that discovery is appropriate. *See* Rule Governing 28 U.S.C. §2254  
7 Cases in the United States District Courts 6(a). In addition, the Court has not determined an  
8 evidentiary hearing will be required in this case, nor does it appear one is needed at this point.  
9 *See* Rule Governing 28 U.S.C. § 2254 Cases in the United States District Courts 8(c). Petitioner  
10 has not shown that his particular conditions of confinement are such that “the interests of justice”  
11 require appointment of counsel.

12 Accordingly, petitioner’s motion for appointment of counsel (Dkt. 9) hereby is DENIED.

13 The Clerk shall send a copy of this Order to petitioner and to counsel for respondent.

14 Dated this 14<sup>th</sup> day of November, 2014.

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16 Karen L. Strombom  
17 United States Magistrate Judge