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

10 DARNELL O MCGARY,

11 Petitioner,

12 v.

13 MARK STRONG,

14 Respondent.

CASE NO. C14-5829 BHS-KLS

ORDER DENYING PETITIONER'S  
MOTION FOR COUNSEL

15 Petitioner Darnell McGary seeks an order appointing counsel in his habeas proceeding.  
16 Dkt. 11. Having carefully considered the motion, the Court finds that it should be denied.

17 **DISCUSSION**

18 There is no constitutional right to the appointment of counsel in a federal habeas corpus  
19 proceeding. *McCleskey v. Zant*, 499 U.S. 467, 495 (1991); *Pennsylvania v. Finley*, 481 U.S. 551,  
20 555 (1987). If an evidentiary hearing is required, the Court may appoint counsel for a petitioner  
21 who qualifies under 18 U.S.C. § 3006(A)(g). Rule 8(c), 28 U.S.C. foll. § 2254. The Court may  
22 also appoint counsel at an earlier stage of the proceedings if the interest of justice so requires. 18  
23 U.S.C. § 3006(A); *see also* 21 U.S.C. 848(q); 28 U.S.C. § 2254(h); *Terrovona v. Kincheloe*, 912  
24 F.2d 1176, 1181-82 (9th Cir. 1990); *Dillon v. United States*, 307 F.2d 445, 447 (9th Cir. 1962).

1 “In exercising its discretion, the district court should consider the legal complexity of the case,  
2 the factual complexity of the case, and the petitioner’s ability to investigate and present his  
3 claims, along with any other relevant factors.” *Hoggard v. Purkett*, 29 F.3d 469, 471 (8th Cir.  
4 1994) (citing *Abdullah v. Norris*, 18 F.3d 571, 573 (8th Cir. 1994)).

5 Mr. McGary fails to show the appointment of counsel is necessary at this time. The  
6 motion is at best premature. Respondent has not yet answered the petition, the Court has not  
7 determined whether an evidentiary hearing is necessary, and Mr. McGary has not shown the case  
8 presents complex legal or factual issues that would require the appointment of counsel in the  
9 interests of justice.

10 Accordingly, the motion for appointment of counsel (Dkt. 11) is **DENIED**. The Clerk  
11 shall send a copy of this Order to Petitioner and to counsel for Respondent.

12 DATED this 1st day of December, 2014.

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15 Karen L. Strombom  
16 United States Magistrate Judge  
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