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8	UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON AT TACOMA		
9		JMA	
10	AGYEI JUMAANE MCDANIEL,	CASE NO. 3:18-cv-05023-RBL-JRC	
11	Petitioner,		
12	v.	ORDER DENYING MOTION FOR APPOINTED COUNSEL	
13	RONALD HAYNES,		
14	Respondent.		
15			
16	The District Court has referred this petition for a writ of habeas corpus to United States		
17	Magistrate Judge J. Richard Creatura. The Court's authority for the referral is 28 U.S.C. §		
18	636(b)(1)(A) and (B), and local Magistrate Judge Rules MJR3 and MJR4. Petitioner Agyei		
19	Jumaane McDaniel filed the petition pursuant to 28 U.S.C. § 2254. He has now requested that		
20	the Court grant him appointed counsel. However, petitioner has not yet demonstrated the		
21	exceptional circumstances necessary to justify the appointment of counsel. Therefore, the Court		
22	denies petitioner's motion without prejudice. He may request an attorney at a later date if and		
23	when he can demonstrate the necessary exceptional circumstances.		
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BACKGROUND

Petitioner originally filed his habeas petition in January of 2018. Dkt. 1. He alleges that his 14th Amendment protections were violated when he was charged with second degree murder instead of manslaughter, that he was not permitted to present a complete defense, and that he received ineffective assistance of counsel both when trial counsel did not request a lesserincluded charge instruction and when trial counsel failed to object to allegedly impermissible propensity evidence. Dkts. 5, 6. The Court directed the Clerk to serve the petition (Dkt. 7) and 8 respondent entered notice of appearance (Dkt. 9, 10). Respondent has not yet filed a response to the petition and the deadline for filing a response has not yet passed.

DISCUSSION

Petitioner requests that the Court appoint counsel for him because he is indigent and his family has attempted, without success, to secure pro bono counsel. In habeas proceedings, there is no constitutional right to appointment of counsel because the proceeding is civil, not criminal, in nature. See Terrovona v. Kincheloe, 912 F.3d 1176, 1181 (9th Cir. 1990). The Court may request an attorney to represent indigent civil litigants under 28 U.S.C. § 1915(e)(1), but should do so only under "exceptional circumstances." Agyeman v. Corrections Corp. of Am., 390 F.3d 1101, 1103 (9th Cir. 2004). "A finding of exceptional circumstances requires an evaluation of both the likelihood of success on the merits and the ability of the plaintiff to articulate his claims pro se in light of the complexity of the legal issues involved." Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986).

21 Here, plaintiff has not yet demonstrated the exceptional circumstances required for the 22 Court to appoint counsel. It is still very early in petitioner's habeas proceeding. Respondent has 23 not yet filed a response to petitioner's habeas petition, and the deadline for filing a response has 24

1	not yet passed. Because it is so early, the Court cannot yet determine the likelihood of	
2	petitioner's success. Further, petitioner has thus far effectively articulated his claims. Therefore,	
3	the Court denies petitioner's motion without prejudice.	
4	CONCLUSION	
5	For the reasons stated above, the Court denies petitioner's motion for appointment of	
6	counsel (Dkt. 8) without prejudice. Petitioner may request appointed counsel at a later date if and	
7	when petitioner can demonstrate the exceptional circumstances necessary for the Court to grant	
8	his request.	
9	Dated this 2nd day of April, 2018.	
10	A Marcal Lina Luna	
11	J. Richard Creatura	
12	United States Magistrate Judge	
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