

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

10 AGYEI JUMAANE MCDANIEL,

11 Petitioner,

12 v.

13 RONALD HAYNES,

14 Respondent.

CASE NO. 3:18-cv-05023-RBL-JRC

ORDER DENYING MOTION FOR
APPOINTED COUNSEL

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.
24

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24

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

22

23

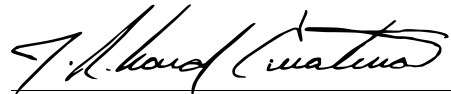
24

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 

11 J. Richard Creatura
12 United States Magistrate Judge
13
14
15
16
17
18
19
20
21
22
23
24