

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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**XAVIER FREYTES TORRES,**  
Petitioner,

v.

Case No. 15-C-0247

**BRIAN FOSTER, Warden,**  
Green Bay Correctional Institution,  
Respondent.

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**ORDER**

Xavier Freytes-Torres has filed a petition pursuant to 28 U.S.C. § 2254. In a prior order, I ordered the respondent to file a response to the petition. In that same order, I denied Freytes-Torres's motion to appoint counsel on the ground that he had not shown that he had made a reasonable attempt to obtain counsel on his own. Freytes-Torres has since filed a motion for reconsideration of my decision, arguing that he has now made a reasonable attempt to secure counsel on his own and that he is not competent to litigate this case himself. See *Pruitt v. Mote*, 503 F.3d 647, 654 (7th Cir. 2007) (en banc).

Freytes-Torres's affidavit in support of his motion for reconsideration shows that he has in fact made a reasonable attempt to secure counsel on his own. Thus, I must assess whether he is competent to litigate this case himself. He states that he will have difficulty filing a brief in support of his petition because English is not his first language and he is losing the assistance of a fellow inmate. However, along with his petition, Freytes-Torres filed the petition for review that he filed with the Wisconsin Supreme Court. That petition appears to contain the legal arguments that Freytes-Torres intends to make in the present case. Because Freytes-Torres may use the petition for review as guidance when preparing

his brief in support of his habeas petition, I conclude that Freytes-Torres is competent to litigate on his own. If after the parties file their briefs it becomes apparent that Freytes-Torres is not, in fact, competent to litigate on his own, I will reconsider this ruling. However, at this point Freytes-Torres must file a brief on his own. Because the deadline for filing that brief is approaching, I will provide Freytes-Torres with an extension of time.

**THEREFORE, IT IS ORDERED** that petitioner's motion to reconsider the denial of his request for appointed counsel is **DENIED**.

**IT IS FURTHER ORDERED** that petitioner's brief in support of his petition must be filed on or before October 1, 2015. Respondent shall have 45 days following the filing of petitioner's initial brief within which to file a brief in opposition. Petitioner shall have 30 days following the filing of respondent's opposition brief within which to file a reply brief, if any.

Dated at Milwaukee, Wisconsin, this 12th day of August, 2015.

s/ Lynn Adelman

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LYNN ADELMAN  
District Judge