

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

ZENO EUGENE SIMS,

Petitioner,

vs.

CIVIL ACTION
No. 09-3082-RDR

CLAUDE CHESTER,

Respondent.

MEMORANDUM AND ORDER

This matter is an action for habeas corpus relief filed pursuant to 28 U.S.C. § 2241. By an order entered on July 15, 2011, the court denied relief and dismissed the matter, and an appeal from that decision is now pending.

Petitioner has filed a motion for the appointment of counsel (Doc. 23). There is no constitutional right to the appointment of counsel in a federal habeas corpus action. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987). However, the court may appoint counsel when it determines "that the interests of justice so require." 18 U.S.C. § 3006A(a)(2)(B).

Having considered the record, the court finds no basis to appoint counsel to assist petitioner on appeal. The court has determined the claims were presented in earlier actions and that

the present matter is a successive application for relief. The court will deny the motion for the appointment of counsel. Petitioner may renew his motion in the appellate court.

IT IS, THEREFORE, BY THE COURT ORDERED petitioner's motion for the appointment of counsel (Doc. 23) is denied.

Copies of this order shall be transmitted to the parties and to the Clerk of the Court of Appeals.

IT IS SO ORDERED.

Dated at Topeka, Kansas, this 22nd day of August, 2011.

S/ Richard D. Rogers
RICHARD D. ROGERS
United States Senior District Judge