

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS**

United States of America,

Plaintiff,

v.

**Case No. 10-20037-01-JWL
14-2512-JWL**

Don Milton Steele,

Defendant.

MEMORANDUM & ORDER

On October 8, 2014, defendant Don Milton Steele filed a pro se motion to vacate his sentence pursuant to 28 U.S.C. § 2255. After receiving an extension of time, the government filed its response to the motion on January 5, 2015. Mr. Steele then requested additional time to file a reply, until February 16, 2015, in light of his work schedule in the prison and unscheduled closings of the law library. The court granted that request. Mr. Steele has now filed a one-paragraph motion to appoint counsel (doc. 356) in which he asks the court to appoint an attorney to represent him in connection with his § 2255 proceedings on the grounds that he has “encountered memory problems” during his time of incarceration and has “lost a great deal” of his sense of hearing. The motion is denied.

There is no Sixth Amendment right to counsel in connection with the presentation of a § 2255 motion, because the right to appointed counsel extends to the defendant’s first appeal as of right, and no further. *See Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987). While the Criminal Justice Act provides for appointment of counsel for financially eligible individuals under certain circumstances, including in § 2255 proceedings when “the interests of justice so require,” 18

U.S.C. § 3006A(a)(2)(B), Mr. Steele has not shown that the interests of justice require the appointment of counsel. Despite his asserted memory problems, Mr. Steele has demonstrated in his § 2255 motion that he is able to recall the details underlying his claims for relief with clarity and that he is able to articulate his claims with clarity. The court has reviewed Mr. Steele's motion and finds it cogent and well-written. With respect to Mr. Steele's loss of hearing, he has not indicated how his hearing loss has affected his ability to present in writing his claims to the court or how appointed counsel would mitigate his hearing loss in any way.

For the foregoing reasons, the court denies Mr. Steele's motion for appointed counsel. Because Mr. Steele's reply deadline has now passed, the court will grant Mr. Steele additional time to file a reply to the government's response to his 2255 motion, up to and including March 13, 2015.

IT IS THEREFORE ORDERED BY THE COURT Mr. Steele's motion to appoint counsel (doc. 356) is denied and his reply deadline is extended until **March 13, 2015**.

IT IS SO ORDERED.

Dated this 18th day of February, 2015, at Kansas City, Kansas.

s/ John W. Lungstrum
John W. Lungstrum
United States District Judge