

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

TROY H. NELSON,

Petitioner,

vs.

CIVIL ACTION  
No. 10-3135-SAC

RAY ROBERTS, et al.,

Respondents.

MEMORANDUM AND ORDER

This matter comes before the court on petitioner's motion to appoint counsel (Doc. 3) and on respondents' motion for an extension of time to file a response to the petition for habeas corpus (Doc. 15).

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). Rather, the decision whether to appoint counsel rests in the discretion of the court. *Swazo v. Wyoming Dep't. of Corrections State Penitentiary Warden*, 23 F.3d 332, 333 (10<sup>th</sup> Cir. 1994). See also 18 U.S.C. §3006A(a)(2)(B)(the court may appoint counsel in action under § 2254 where "the interests of justice so require").

In deciding whether to appoint counsel in a civil action, the court should consider "the litigant's claims, the nature of the factual issues raised in the claims, the litigant's ability to present his claims, and the complexity of the legal issues raised by the claims." *Long v. Shillinger*, 927 F.2d 525, 526-27 (10th Cir. 1991).

The court has reviewed the petition and finds no basis for the appointment of counsel. Petitioner is able to clearly express his claims for relief, and the legal principles and facts involved in this matter do not appear to be unusually complicated.

Respondents seek an extension of time to and including March 8, 2011, to file a responsive pleading. The court finds good cause is shown for the request and will grant the motion.

IT IS, THEREFORE, BY THE COURT ORDERED petitioner's motion for the appointment of counsel (Doc. 3) is denied.

IT IS FURTHER ORDERED respondents' motion for an extension of time (Doc. 15) is granted.

Copies of this Memorandum and Order shall be transmitted to the parties.

**IT IS SO ORDERED.**

Dated at Topeka, Kansas, this 10<sup>th</sup> day of February, 2011.

S/ Sam A. Crow  
SAM A. CROW  
United States Senior District Judge