

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

LLOYD VINCENT, JR.,

Petitioner,

v.

CASE NO. 11-3052-SAC

RAY ROBERTS,

Respondent.

MEMORANDUM AND ORDER

This matter is a petition for habeas corpus filed pursuant to 28 U.S.C. § 2254. It comes before the court on petitioner's motion for the appointment of counsel (Doc. 13).

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 (10th 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).

In the present case, the respondent has filed a motion to dismiss this matter as untimely. Because the court finds the issues of law and fact are not unusually complicated, it will deny the motion to appoint counsel.

IT IS, THEREFORE, BY THE COURT ORDERED petitioner's motion for the appointment of counsel (Doc. 13) is denied.

IT IS FURTHER ORDERED the time in which petitioner may respond to the motion to dismiss is extended to September 30, 2011.

Copies of this order shall be transmitted to the parties.

IT IS SO ORDERED.

DATED: This 31st day of August, 2011, at Topeka, Kansas.

S/ Sam A. Crow
SAM A. CROW
U.S. Senior District Judge