

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

EARNEST WAYNE OVERTON,

Petitioner,

v.

**JAMES HEIMGARTNER and
KANSAS ATTORNEY GENERAL,**

Respondents.

CIVIL ACTION

No. 15-3266-KHV

MEMORANDUM AND ORDER

This matter is a petition for habeas corpus filed under 28 U.S.C. § 2254. On January 22, 2016, petitioner filed a motion to proceed in forma pauperis (Doc. #5) and a motion to appoint counsel (Doc. #6).

The Court denies the motion to proceed in forma pauperis as petitioner has paid the full filing fee. See Burgess v. Daniels, 578 Fed. Appx. 747, 749 (10th Cir. 2013)(petitioner's challenge of denial of motion to proceed in forma pauperis dismissed as moot where petitioner paid filing fee).

An applicant for habeas corpus has no constitutional right to the appointment of counsel. Pennsylvania v. Finley, 481 U.S. 551, 555 (1987)("Our cases establish that the right to appointed counsel extends to the first appeal of right and no further.") However, the court may appoint counsel when the interests of justice so require and the petitioner is financially eligible. 18 U.S.C. § 3006A (1),(2)(b).

The Court has examined the petition and finds no basis to appoint counsel. Petitioner appears capable of presenting his claims, the issues are not unusually complicated, and it does not appear that a hearing is necessary.

IT IS THEREFORE ORDERED that Petitioner's Motion For Leave To Proceed In Forma Pauperis (Doc. #5) filed January 22, 2016 be and hereby is **DENIED**.

IT IS FURTHER ORDERED that petitioner's Motion To Appoint Counsel (Doc. #6) filed January 22, 2016 be and hereby is **DENIED**.

Dated this 3rd day of May, 2016 at Kansas City, Kansas.

s/Kathryn H. Vratil
KATHRYN H. VRATIL
United States District Judge