

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

GREGORY JOHN MILO,

Petitioner,

v.

CASE NO. 17-3154-SAC

DAN SCHNURR,

Respondent.

MEMORANDUM AND ORDER

This matter is a petition for habeas corpus filed under 28 U.S.C. § 2254. The respondent's Answer and Return is pending. Petitioner has moved for the appointment of counsel.

An applicant for habeas corpus relief has no constitutional right to the appointment of counsel. See *Swazo v. Wyo. Dept. of Corr.*, 23 F.3d 332, 333 (10th Cir. 1994) ("[T]here is no constitutional right to counsel beyond the appeal of a criminal conviction, and ... generally appointment of counsel in a § 2254 proceeding is left to the court's discretion."). Rather, the court may appoint counsel when "the interests of justice so require" for a petitioner who is financially eligible. See 18 U.S.C. § 3006A(1)(2)(b).

The court has studied the petition and concludes that the appointment of counsel is not warranted in this matter at the present time. The Court will review the responsive pleading and then will determine whether an evidentiary hearing is necessary in this matter. If so, petitioner will be appointed counsel at that time.

IT IS, THEREFORE, BY THE COURT ORDERED petitioner's motion to appoint counsel (Doc. 18) is denied without prejudice.

IT IS SO ORDERED.

DATED: This 1st day of December, 2017, at Topeka, Kansas.

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