

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

REGINALD MARCEL JOHNSON,

Petitioner,

v.

CASE NO. 18-3260-SAC

BRAD CAIN, et al.,

Respondents.

MEMORANDUM AND ORDER

This matter is a petition for habeas corpus filed under 28 U.S.C. § 2254. Petitioner is serving a life sentence imposed in the District Court of Sedgwick County, Kansas. On October 16, 2018, the Court directed him to show cause why this matter should not be dismissed without prejudice due to a pending state post-conviction action. In his response, petitioner requested a stay in this matter. He also moves for the appointment of counsel.

The Court has considered the record and grants the request to stay this matter. The Court also has examined on-line records maintained by the Kansas appellate courts¹ and notes that petitioner's post-conviction action is now before the Kansas Court of Appeals. The Court will direct petitioner to advise the Court when a final decision is reached in that matter.

As noted, petitioner seeks 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

¹ [Http://tpka-pitsskscourts.org](http://tpka-pitsskscourts.org).

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 declines to appoint counsel in this matter at this time but will review the record at the close of state court proceeding.

IT IS, THEREFORE, BY THE COURT ORDERED this matter is stayed pending the resolution of petitioner's state court action. Petitioner is directed to notify the Court in writing upon the issuance of a final decision in that matter.

IT IS FURTHER ORDERED petitioner's motion to appoint counsel (Doc. 3) is denied.

IT IS SO ORDERED.

DATED: This 23rd day of August, 2019, at Topeka, Kansas.

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