

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

JERRY D. SELLERS,

Petitioner,

v.

CASE NO. 19-3136-SAC

MARTY SAUERS, Warden,

Respondent.

O R D E R

This matter is a petition for habeas corpus filed under 28 U.S.C. § 2254. It comes before the Court on petitioner's motion for leave to proceed in forma pauperis (Doc. 5) and motion to appoint counsel (Doc. 6) and on respondent's motion for extension of time (Doc. 7).

The Court has examined petitioner's motion to proceed in forma pauperis and finds he has sufficient resources to pay the \$5.00 filing fee. Accordingly, the Court will deny this motion and will direct petitioner to submit the filing fee to the clerk of the court.

Petitioner also moves 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 examined the petition and attachments and concludes that petitioner is able to present his arguments and claims for relief in a clear and organized way. The Court finds the appointment of counsel is not warranted in this matter and will deny the motion.

Respondent seeks an extension of time to and including October 29, 2019, to file an Answer in Return. The Court finds good cause exists for this request and will grant the motion.

IT IS, THEREFORE, BY THE COURT ORDERED petitioner's motion to proceed in forma pauperis (Doc. 5) is denied. Petitioner is granted to and including September 27, 2019, to submit the \$5.00 filing fee to the clerk of the court.

IT IS FURTHER ORDERED petitioner's motion to appoint counsel (Doc. 6) is denied.

IT IS FURTHER ORDERED respondent's motion for extension of time (Doc. 7) is granted. Respondent is granted to and including October 29, 2019, to file a response to the petition.

IT IS SO ORDERED.

DATED: This 27th day of August, 2019, at Topeka, Kansas.

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