

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

EDWARD ANDERSON,

Petitioner,

v.

DANIEL BENIK, Warden,
Stanley Correctional Institution,

Respondent.

ORDER

05-C-306-C

Before the court are petitioner Edward Anderson's renewed request for appointment of counsel, request for discovery and an evidentiary hearing, and his request for supplementation of the record. *See* dkts. 11-12. I am denying petitioner's requests for an attorney, for discovery and for an evidentiary hearing. I am ordering the state to supplement the record with transcripts and a brief from the state court proceedings.

Petitioner continues to seek appointment of counsel. Petitioner has raised three substantive grounds for habeas relief: ineffective assistance of counsel, violation of his right to a speedy trial, and prosecutorial misconduct. Petitioner raised these same claims pro se to the trial court and the Wisconsin Court of Appeals. In each of those courts, as in this court, petitioner submitted a long, detailed cogent and well organized typed brief. Petitioner has demonstrated that he is highly capable of presenting and arguing his claims to this court. Indeed, I'm not sure what an attorney could add to petitioner's presentation.

Which segues to the second point: appointing an attorney would not change the outcome. Petitioner has presented clear, simple claims for relief. Equally clear is the reasoning of the state courts in their decisions denying relief. This court is very familiar with the statutes and case law by which to decide § 2254 claims of this nature. There is nothing an attorney could add to the mix that would improve petitioner's chances of success. Put another way, given the difficulty of the issues raised in the petition in relation to petitioner's claimed level of competence to represent himself, and given this court's ability to review and analyze all of petitioner's claims, petitioner can obtain justice without the assistance of an attorney in this case. *See Dellenbach v. Hanks*, 76 F.3d 820, 823 (7th Cir. 1996), *citing Farmer v. Haas*, 990 F.2d 319, 322 (7th Cir. 1993).

Petitioner requests that this court order the production and *in camera* review of documents he claims are relevant to his prosecutorial misconduct claim. *See* dkt. 12. Having carefully reviewed the entire record before this court (including petitioner's reply brief argument for an evidentiary hearing, dkt. 10 at 6), I conclude pursuant to Rule 6(a), Rules Governing Section 2254 Cases and § 2254(e)(2) that there is not good cause to order the requested discovery or to hold an evidentiary hearing. Petitioner's allegations and arguments on these issues are conclusory and unpersuasive.

Finally, petitioner requests supplementation of the record pursuant to Rule 5(d)(1) and § 2254(f) and (g). Because the state court decisions denying relief rely in part on citations to transcripts of the state court proceedings, this court must review those

transcripts in order to conduct the review directed by § 2254(d)(2). Also, petitioner has requested that the state provide a copy of his reply brief and supporting affidavit to the trial court in support of petitioner's request for post-conviction relief; since the trial court indicates that it has reviewed the parties' briefs before making its findings, *See* Nov. 25, 2003 Decision and Order, dkt. 7, Exh. D at 1, this court should have access to petitioner's reply.

ORDER

For the reasons stated above, it is ORDERED that:

- 1) Petitioner's motion for appointment of counsel is DENIED.
- 2) Petitioner's motion for discovery and for an evidentiary hearing is DENIED.
- 3) Petitioner's request to supplement the record is GRANTED. Not later than October 17, 2005, the state must provide copies of the transcripts of the state court proceedings and petitioner's reply brief and supporting affidavit to the trial court.

Entered this 16th day of September, 2005.

BY THE COURT:
/s/
STEPHEN L. CROCKER
Magistrate Judge