

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

LARRY SPENCER,

Petitioner,

ORDER

v.

05-C-0666-C

CATHY FARREY, Warden,
New Lisbon Correctional Institution,

Respondent.

Petitioner has filed a motion requesting the court to appoint “standby” counsel to represent him in this habeas proceeding. The motion is denied. Petitioner constructively fired the first lawyer this court appointed to represent him. It is clear from petitioner’s motion that he seeks a lawyer not for the purpose of providing professional legal advice or services, but rather to be a “gopher” to collect materials petitioner deems are important and to be petitioner’s mouthpiece to the court. Petitioner is not entitled to have the government fund the costs of a lawyer for this purpose.

Although petitioner’s submissions are repetitive and poorly organized, he is capable of making his points adequately and complying with the court’s instructions. Moreover, the documents about which petitioner seems most concerned are simply not relevant to this case. In the event this court reaches the merits of petitioner’s claims, the primary issue will be whether petitioner’s entry of an *Alford* plea to the forgery charge is constitutionally valid.

Documents from Joseph Sommers's file showing communications between him and petitioner concerning petitioner's defense to the forgery charges simply have no bearing on that issue. If this court determines that petitioner's plea was constitutionally defective, then petitioner will be entitled to withdraw it and the criminal case against petitioner will resume in state court as if he had never entered a plea.

Finally, petitioner requests the court to return the 46 pages of exhibits he attached to his motion for reconsideration. That request is granted. The clerk shall make a photocopy of those documents for the court file and return the originals to petitioner.

ORDER

Petitioner's motion for the appointment of "standby" counsel is DENIED.

Entered this 25th day of October, 2006.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge