

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

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JAMES FREER,

Petitioner,

ORDER

v.

08-cv-135-bbc

MICHAEL THURMER, Warden,  
Waupun Correctional Institution,

Respondent.

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Petitioner James Freer has filed a combined writ of error, motion to correct the record and motion for appointment of counsel to represent him in this habeas corpus action brought pursuant to 28 U.S.C. § 2254. Dkt. 6. It is unclear what petitioner believes is in error. He refers to a "letter dated March 31, 2008," the need to correct the record and the transmittal of the record from the Wisconsin court of appeals. The only entry of record on March 31, 2008 is this court's order to show cause requiring the state to respond to the petition. I will reserve ruling on the writ of error and motion to correct the record until petitioner has had further opportunity to explain his motion. For the reasons stated below, I am denying petitioner's request for appointment of counsel.

I note that petitioner has not submitted an affidavit of indigency. I will assume for purposes of argument that he is indigent. When deciding whether to appoint counsel to an indigent litigant, a district court must consider 1) the difficulty of the case in relation to the

petitioner's ability to represent himself and 2) whether counsel might make a difference to the outcome. *Farmer v. Haas*, 990 F.2d 319, 322 (7th Cir. 1993)). The question is "whether the difficulty of the case—factually and legally—exceeds the particular plaintiff's capacity as a layperson to coherently present it to the judge or jury himself." *Pruitt v. Mote*, 503 F.3d 647, 655 (7th Cir. 2007) (clarifying earlier articulated standard).

Petitioner's claims are straightforward, both legally and factually. Petitioner also has presented his claims in a coherent manner to the court. This court is quite familiar with the case law applicable to the constitutional issues raised by petitioner's claims and to the review applicable to § 2254 petitions. Petitioner also has shown both in filings to this court and the state courts that he has the capacity to represent himself. In addition, the court reviews habeas petitions carefully and construes *pro se* filings liberally. Petitioner will get a fair and just review of his petition even without the help of a lawyer. If it later becomes apparent that the issues are more complex than anticipated or that petitioner does not have the necessary degree of competence, the court will reconsider the request. *Pruitt*, 503 F.3d at 656.

## ORDER

IT IS ORDERED that:

1. Petitioner's motion for the appointment of counsel is DENIED; and

2. Petitioner will have 10 days from the date of this order to explain his motion regarding this court's error. If petitioner fails to file a response within this deadline, the court will deny his request to correct the error.

Entered this 17<sup>th</sup> day of April, 2008.

BY THE COURT:

/s/

STEPHEN L. CROCKER  
Magistrate Judge