

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

HERBERT AMBROSE DARDEN,

Petitioner,

v.

TIMOTHY DOUMA,

Respondent.

ORDER

13-cv-738-bbc

In an order entered on December 2, 2013, I directed the state to respond to petitioner Herbert Darden's petition for a writ of habeas corpus under 28 U.S.C. § 2254. That response was filed with the court on January 29, 2014. Petitioner was granted a 60-day extension of time until April 29, 2014 to file his brief in support. Now before the court is petitioner's motion for appointment of counsel. This motion will be denied.

Under 18 U.S.C. § 3006A(2)(B), a district court may appoint counsel to represent an indigent petitioner seeking relief under § 2254 if the court determines that "the interests of justice so require." To the extent that petitioner believes that he is ill-equipped to litigate the case, his lack of legal training and reliance on a jailhouse lawyer are extremely common and do not require appointment of counsel in the interests of justice. Petitioner's submissions show that he is able to present his claims adequately and marshal evidence in support of them. The respondent has provided the state court record, which contains the

last reasoned opinion to address petitioner's claims. Petitioner will not need to make any complex legal arguments; instead he must point to evidence presented in the state court proceedings that undermine the state courts' factual determinations. As a general rule, habeas corpus cases do not require much discovery, other than of the record, but if petitioner finds that his case does require discovery and can show that he is incapable of pursuing it, he may renew his motion. If it becomes necessary to hold an evidentiary hearing in this matter, I may appoint counsel for that purpose. At this time, however, petitioner's motion for appointment of counsel will be denied.

ORDER

IT IS ORDERED that petitioner Herbert Darden's motion for appointment of counsel, dkt. #12, is DENIED without prejudice.

Entered this 3d day of April, 2014.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge