

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

KENNY DREW SAYRE,

Petitioner,

v.

**Civil Action No. 1:07cv61
(Judge Keeley)**

THOMS McBRIDE, Warden,

Respondent.

ORDER DENYING MOTIONS FOR COUNSEL

On May 3, 2006, *pro se* petitioner, Kenny Drew Sayre, filed a petition for habeas corpus pursuant to 28 U.S.C. §2254. On May 21, 2007, the petitioner filed a Motion for appointment of counsel. On May 29, 2007, the undersigned issued a Report and Recommendation, recommending that the petition be dismissed with prejudice as being successive. On August 3, 2007, the petitioner again moved for appointment of counsel. In contrast to a criminal proceeding in which the Court has a duty to assign counsel to represent an indigent defendant in accordance with his constitutional rights, the Court in a civil case has the discretion to request an attorney to represent a person unable to employ counsel. See 28 U.S.C. §1915(e)(1). It is well settled that in a civil action the Court should appoint counsel to represent an indigent only after a showing of a particular need or exceptional circumstances. Cook v. Bounds, 518 F.2d 779 (4th Cir. 1975). The petitioner has failed to demonstrate that his current circumstances require the appointment of counsel for him to pursue his habeas corpus petition. Thus, the Court finds that appointment of counsel is not necessary in order for the petitioner to adequately pursue his petition. Accordingly, the petitioner's motions for appointment of counsel (dckts. 10 and 17) are DENIED.

IT IS SO ORDERED.

The Clerk of the Court is directed to mail a copy of this Order to the *pro se* petitioner and any counsel of record.

DATED: August 6, 2007

/s/ James E. Seibert
JAMES E. SEIBERT
UNITED STATES MAGISTRATE JUDGE