

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

GARY DAMATO

v.

WARDEN MURPHY

PRISONER

Case No. 3:08cv855 (SRU) (WIG)

RULING AND ORDER

Petitioner seeks an explanation why his previous motions for appointment of counsel were denied. He argues that the court is violating his Sixth and Fourteenth Amendment rights to counsel. He also questions, yet again, the denial of his many requests for copies of computer discs or audio tapes.

There is no constitutional right to counsel in a habeas corpus action. See Green v. Abrams, 984 F.2d 41, 47 (2d Cir. 1993). As the court previously explained, appointment of counsel in habeas corpus cases is discretionary, and that discretion should be exercised only when the interests of justice so require, unless an evidentiary hearing is necessary. See 18 U.S.C. § 3006A(a) (2) (B).

An order to show cause has been served, but the respondent has not yet responded to the petition. At this time, the court cannot determine whether an evidentiary hearing will be needed. Appointment of counsel is not warranted at this time.

In addition, although petitioner disputes the accuracy of

the trial transcripts, he still does not state whether the materials he seeks still exist or who has them, indicate what information he expects to discover from these materials or provide specific evidence relating these materials to the claims in this petition. See Green v. Artuz, 990 F. Supp. 267, 271 (S.D.N.Y. 1998). Thus, his request for discovery was denied.

Petitioner's motion for articulation [**doc. #36**] is **GRANTED**.

SO ORDERED at Bridgeport, Connecticut this 9th day of December 2008.

 /s/ William I. Garfinkel
WILLIAM I. GARFINKEL
UNITED STATES MAGISTRATE JUDGE