IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH

UNITED STATES OF AMERICA, Plaintiff, v. HENRY MACIAS MEDINA, Defendant.	MEMORANDUM DECISION AND ORDER DENYING WITHOUT PREJUDICE DEFENDANT'S MOTION TO APPOINT COUNSEL Case No. 2:09-CR-784 TS District Judge Ted Stewart

This matter is before the Court on Defendant's Motion to Appoint Counsel. Defendant seeks the appointment of counsel to assist in the preparation of a yet-to-be filed motion under 28 U.S.C. § 2255.

"[T]here is no right to counsel in collateral proceedings."[1] Only when an evidentiary hearing is required is a defendant entitled to counsel.[2] The decision to appoint counsel is left to the sound discretion of the Court.[3] "In determining whether to appoint counsel, the district court should consider a variety of factors, including the merits of the litigant's claims, the nature of the factual issues raised in the claims, the litigant's ability to present his claims, and the complexity

[1] *United States v. Prows*, 448 F.3d 1223, 1229 (10th Cir. 2006); *see also Pennsylvania v. Finley*, 481 U.S. 551, 555 (1990) (stating that "the right to appointed counsel extends to the first appeal of right, and no further").

[2] Rule 8(c) of the Rules Governing § 2255 Proceedings for the United States District Courts.

[3] *Engberg v. Wyoming*, 265 F.3d 1109, 1122 (10th Cir. 2001).

of the legal issues raised by the claims."[4] Considering these factors, the Court declines to appoint counsel at this time.

It is therefore

ORDERED that Defendant's Motion to Appoint Counsel (Docket No. 412) is DENIED WITHOUT PREJUDICE.

DATED this 29th day of June, 2016.

BY THE COURT:

Ted Stewart
United States District Judge

[4] *Williams v. Meese*, 926 F.2d 994, 996 (10th Cir. 1991).