

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF IOWA  
EASTERN DIVISION

LYNN GENE LAMASTERS,	)	
	)	
v.	)	No. 13cv2003
	)	ORDER
WARDEN, IOWA STATE PENITENTIARY,	)	
	)	
Respondent.	)	

This matter is before the court on petitioner's Application to Proceed in Forma Pauperis, Petition for Writ of Habeas Corpus, and Motion for Appointment of Counsel, filed December 10, 2012 in the US District Court for the Southern District of Iowa, transferred to this court on January 9, 2013 pursuant to 28 USC §2241(d). Application to Proceed in Forma Pauperis and Motion for Appointment of Counsel denied. Dismissed unless amended petition filed by not later than Friday, March 1, 2013.

Petitioner, presently incarcerated in the Iowa State Penitentiary, brings this action pursuant to 28 USC §2254 challenging his conviction for first degree murder, rendered in the Iowa District Court for Buchanan County. The court has jurisdiction pursuant to 28 USC §1331.

Petitioner paid the filing fee on December 10, 2012, and therefore his Application to Proceed in Forma Pauperis shall be denied as moot. He raises no grounds in support of his Petition, instead seeking appointment of counsel, asserting


that he needs an attorney to properly fill out forms. There is no right to counsel on habeas review. Nachtigall v. Class, 48 F3d 1076, 1081 (8<sup>th</sup> Cir. 1995). Apart from the assertion that he needs appointment of counsel, petitioner has made no showing that he is unable to present claims. Accordingly, his motion for appointment of counsel shall be denied. If petitioner wishes to pursue this matter, he shall file an amended petition in compliance with the Rules Governing Section 2254 Cases by not later than Friday, March 1, 2013.

It is therefore

ORDERED

1. Application to Proceed in Forma Pauperis denied.
2. Motion for Appointment of Counsel denied.
3. Dismissed without prejudice unless petitioner files an amended petition in accordance herewith by not later than Friday, March 1, 2013.

January 29, 2013.

  
Edward J. McManus, Judge  
UNITED STATES DISTRICT COURT