_____
[print name above]

_____
[name of prison, jail or other detention facility]

_____
[booking number at prison, jail or other detention facility]

_____
[street address or P.O. Box]

_____
[city, state, and zip code]

Appearing Pro Se

IN THE UNITED STATES DISTRICT COURT

FOR THE _____ DISTRICT OF CALIFORNIA

_____, [print name] Petitioner, v. _____ [warden of facility in which you are incarcerated] Respondent.	No. _____ [Write in case number, if you have one. If you are mailing this to the court with a new petition and do not have a case number, leave this blank for court clerk to fill in] REQUEST FOR APPOINTMENT OF COUNSEL IN A FEDERAL HABEAS CORPUS CASE

I. Introduction

Petitioner _____ [print name] hereby respectfully requests that the Court appoint counsel to represent him/her in this matter.

Habeas corpus proceedings "are of fundamental importance . . . in our constitutional scheme because they directly protect our most valued rights." *Brown v. Vasquez*, 952 F.2d 1164, 1169 (9th Cir. 1991) (*quoting Bounds v. Smith*, 430 U.S. 817, 827 (1977)) (citations and internal quotations omitted). Consequently, pursuant to 18 U.S.C. § 3006A(a)(2)(B), this Court has the authority to appoint counsel to

assist an indigent Petitioner if the interests of justice so require. In the present case, Petitioner does not have the financial resources to retain counsel. See Application to Proceed Without Prepayment of Fees and Affidavit (In Forma Pauperis). Rule 8(c) of the Habeas Rules makes clear that district judges have the discretion to order "the appointment of counsel under [the Criminal Justice Act] at any stage of the proceeding."

In deciding whether to appoint counsel, this Court must "evaluate [1] the likelihood of success on the merits as well as [2] the ability of the petitioner to articulate his claims pro se in light of the complexity of the legal issues involved." *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983); *accord Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997). As discussed at length in one treatise, the courts generally have endorsed the appointment of counsel to represent indigent and legally unsophisticated prisoners in the following types of non-capital cases:

> (1) Cases that turn on substantial and complex procedural, legal or mixed legal and factual questions (e.g., the fair composition of grand and petit juries, the voluntariness of confessions, and the effective assistance of counsel).
>
> (2) Cases involving uneducated or mentally or physically impaired petitioners.
>
> (3) Cases likely to require the assistance of experts either in framing or in trying the claims.
>
> (4) Cases in which "'the indigent is in no position to investigate crucial facts.'"
>
> (5) Factually complex cases, e.g., ones involving "conflicting testimony," in which the truth is more likely to "be exposed where both sides are represented by those trained in the presentation of evidence."

1 R. Hertz & J. Liebman, *Federal Habeas Corpus Practice and Procedure*, § 12.3 (5th ed. 2005) (internal quotations and citations omitted, numbering altered).

In addition, appointment of counsel is mandatory for indigent noncapital petitioners (a) when counsel is "'necessary for effective [use of the] discovery'" procedures[1] and (b) pursuant to Habeas Rule 8(c), if the district court determines that "an evidentiary hearing is warranted."[2]

As set forth below, appointment of counsel is appropriate in this case.

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[1] Rule 6(a) of the Rules Governing Section 2254 Cases in the United States District Courts.

[2] Rule 8(c) of the Rules Governing Section 2254 Cases in the United States District Courts.

II. Argument

A. Appointment of counsel is appropriate because this case involves substantial and complex procedural, legal or mixed legal and factual questions.

[If your case involves substantial or complex legal and factual issues, explain]

B. Appointment of counsel is appropriate because petitioner lacks education or is mentally or physically impaired.

[If you lack education or are physically or mentally disabled/impaired, explain]

C. Appointment of counsel is appropriate because this case will probably require the assistance of experts either in framing or in proving the claims.

[If you will need the assistance of an expert (e.g. a psychologist, a scientist) to explain your claim or to help you prove your claim, explain]

D. Appointment of counsel is appropriate because the petitioner is indigent and is in no position to investigate crucial facts.

[If you will have difficulty investigating the facts in your case because you lack money to hire an investigator and you cannot do your own investigation because, for example, you are in prison, explain]

E. Appointment of counsel is appropriate because this is a case in which the parties dispute the facts, and thus the truth is more likely to "be exposed where both sides are represented by those trained in the presentation of evidence."

[If your case involves disputed facts (for example you and the government dispute whether you rejected a plea offer), explain]

III. Conclusion

This Court has the authority and should appoint counsel for Petitioner pursuant to 18 U.S.C. §3006A (a)(2)(B). Appointment of counsel will serve the interests of justice and judicial expedience and economy.

Respectfully submitted,

Dated:_____

_____
[signature]

_____
[type or print name]