

IN THE SUPREME COURT OF THE STATE OF MONTANA

DA 16-0693

FRANCO LEO TORRES,

Petitioner and Appellant,

v.

STATE OF MONTANA,

Respondent and Appellee.

ORDER

**FILED**

NOV 29 2016

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

Franco Leo Torres has moved for appointment of counsel in this appeal of a September 27, 2016 Thirteenth Judicial District Court Order dismissing his petition for postconviction relief. As grounds, he states that he “is uneducated and untrained in the field of law . . .” and that legal resources are limited at the prison law library. Torres represented himself in the underlying proceeding.

Ordinarily, the appointment of counsel extends through an appeal from a conviction or sentence.<sup>1</sup> Section 46-8-103, MCA. The right to counsel does not extend to a post-judgment matter such as this. In postconviction proceedings, an appellant such as Torres must show that extraordinary circumstances exist which require appointment of counsel to prevent a gross injustice. Section 46-8-104(1)(e), MCA. While Torres has cited other rationales, he has failed to establish that any extraordinary circumstances exist requiring the appointment of counsel. Therefore,

IT IS ORDERED that the motion for appointment of counsel is DENIED. To assist Torres in complying with the Montana Rules of Appellate Procedure, the Clerk is directed to provide him with a copy of the Civil Handbook for proceeding before this Court without an attorney.

<sup>1</sup> We note that Torres has counsel for a separate appeal of a criminal conviction from the First Judicial District Court, Lewis and Clark County. *State v. F. Torres*, No. DA 15-0702.

The Clerk is directed to provide a copy of this Order to counsel of record, and to Franco Leo Torres personally.

DATED this 29<sup>th</sup> day of November, 2016.

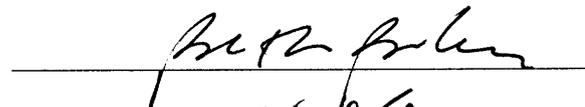


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Chief Justice



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Justices