

The Court accepts, as it must, Petitioner's statement that he is not pursuing habeas relief, and that he wants his initial filing (and presumably his other two explicitly titled motions for appointment of counsel) to only be considered as requests for the appointment of counsel. See (D.I. 1; D.I. 4; D.I. 6) However, as a result, there is no action or proceeding pending before the Court, and no case or controversy to be heard. Thus, the Court lacks jurisdiction to consider Petitioner's requests for the appointment of counsel.¹ See *Lewis v. Continental Bank Corp.*, 494 U.S. 472, 477-78 (1990) (federal courts can only consider ongoing cases or controversies).

For these reasons, the Court will dismiss the case without prejudice and terminate the Motions. A separate Order follows.

May 9, 2014
DATE

Richard B. Anderson
UNITED STATES DISTRICT COURT

¹Additionally, Petitioner has no pending action in which the Court can consider appointing counsel. See *Woodford v. Garceau*, 538 U.S. 202, 206-08 (2003) (explaining that a § 2254 petition is not pending until it is filed, and that a pre-petition motion to appoint counsel will not suffice); cf. 18 U.S.C. § 3006A(a)(2) ("Whenever the [] court determines that interests of justice so require, representation may be provided for any financially eligible person who –(B) is seeking relief under section 2241, 2254, or 2255 of title 28.). In turn, the Court cannot appoint counsel to represent Petitioner in the Delaware state courts, because 18 U.S.C. § 3006A only authorizes federal courts to appoint counsel for indigent parties in federal cases, and *Martinez v. Ryan*, 132 S.Ct. 1309 (2012), does not alter this conclusion. Notably, *Martinez* did not recognize or create an automatic constitutional right to counsel in collateral proceedings or authorize federal courts to intervene in collateral proceedings taking place in state court, but only created a limited method for petitioners in federal habeas cases to prove cause for excusing their state court **procedural default** of certain ineffective assistance of counsel claims. See *id.* at 1319.

