

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARIO LOPEZ-BENITEZ A/K/A MARIO
LOPEZBENITEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 43286

FILED

JAN 13 2005

ORDER OF REVERSAL AND REMAND

JANETTE M BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

This is a proper person appeal from an order of the district court denying appellant's post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; John S. McGroarty, Judge.

On December 4, 2001, the district court convicted appellant, pursuant to a jury verdict, of one count of sexual assault on a minor under the age of fourteen. The district court sentenced appellant to serve a term of life in the Nevada State Prison with the possibility of parole after twenty years. This court affirmed appellant's judgment of conviction and sentence on direct appeal.¹ The remittitur issued on June 10, 2003.

On February 24, 2004, appellant filed a post-conviction petition for a writ of habeas corpus in the district court. Appellant's petition was written almost entirely in the Spanish language. The State filed an opposition, in which they apparently addressed appellant's claims. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint

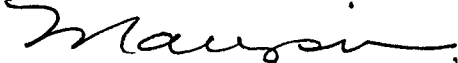
¹Lopez-Benitez v. State, Docket No. 38840 (Order of Affirmance, May 15, 2003).

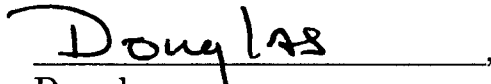
counsel to represent appellant or to conduct an evidentiary hearing. On April 28, 2004, the district court denied appellant's petition. This appeal followed.

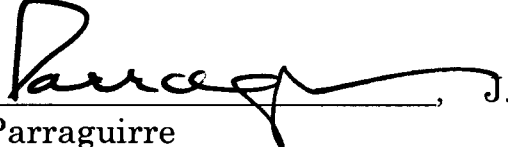
Our preliminary review of this appeal revealed that the district court may have erroneously denied appellant's petition. The record on appeal does not contain an English translation of appellant's petition or six-page supporting memorandum. The district court's proper review and resolution of appellant's petition required a complete understanding of his claims, and it would appear that an English translation of the petition was necessary for the district court's review. Consequently, on October 21, 2004, we ordered the State to show cause why this appeal should not be remanded to the district court for the inclusion and consideration of an English translation of appellant's petition.

The State responded to our order on November 24, 2004, and acknowledged that it did not presently possess an English translation of appellant's petition. Accordingly, we remand this case to the district court for the inclusion and consideration of an English translation of appellant's petition and six-page supporting memorandum. The English translation of appellant's petition must be accompanied by the oath of the translator and his or her attestation of its accuracy. Additionally, the State shall serve a copy of the English translation on appellant. Accordingly, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.²


_____, J.
Maupin


_____, J.
Douglas


_____, J.
Parraguirre

cc: Hon. John S. McGroarty, District Judge
Mario Lopez-Benitez
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

²This order constitutes our final disposition of this appeal. Any subsequent appeal from an order of the district court denying appellant's petition shall be docketed as a new matter.