

IN THE SUPREME COURT OF THE STATE OF NEVADA

RALPH E. GOODMAN, III,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 48610
FILED

MAR 28 2008

TRAZIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

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; Jennifer Togliatti, Judge.

On May 10, 2004, the district court convicted appellant, pursuant to a jury verdict, of two counts of murder with the use of a deadly weapon. The district court sentenced appellant to serve four consecutive terms of life without the possibility of parole in the Nevada State Prison. This court affirmed the judgment of conviction on appeal.¹ The remittitur issued on December 13, 2005.

On September 20, 2006, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent appellant or to

¹Goodman v. State, Docket No. 43434 (Order of Affirmance, Nov. 16, 2005).


conduct an evidentiary hearing. On December 12, 2006, the district court denied appellant's petition. This appeal followed.

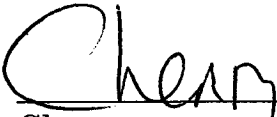
Our review of the record on appeal reveals that the district court erroneously denied appellant's petition without appointing counsel in the instant case. NRS 34.750 provides for the discretionary appointment of post-conviction counsel and sets forth the following factors which the court may consider in making its determination to appoint counsel: the petitioner's indigency, the severity of the consequences to the petitioner, the difficulty of the issues presented, whether the petitioner is unable to comprehend the proceedings, and whether counsel is necessary to proceed with discovery. The determination of whether counsel should be appointed is not dependent upon whether a petitioner raises issues in a petition which, if true, would entitle the petitioner to relief.

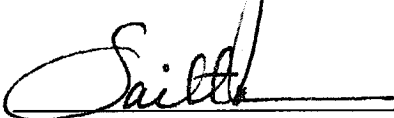
In his petition, appellant raised numerous claims of ineffective assistance of trial and appellate counsel, including claims that appellant's trial counsel was ineffective for failing to challenge several jurors for cause or exercise peremptory challenges to remove those same jurors and that appellant's appellate counsel was ineffective for failing to argue that the district court failed to remove those same jurors. Appellant was represented by appointed counsel at trial. Appellant is currently serving four consecutive terms of life in prison without the possibility of parole. Finally, appellant requested the appointment of counsel and claimed that he was indigent. As appellant is serving a significant sentence, is indigent, and has raised numerous and potentially complex issues, we reverse the district court's denial of appellant's petition and remand this matter for the appointment of counsel to assist appellant in the post-conviction proceedings.

Having reviewed the record on appeal and for the reasons set forth above, we conclude that oral argument and briefing are unwarranted in this matter.² Accordingly, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.³


_____, J.
Maupin


_____, J.
Cherry


_____, J.
Saitta

cc: Hon. Jennifer Togliatti, District Judge
Ralph Eugene Goodman III
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk

²See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

³This order constitutes our final disposition of this appeal. Any subsequent appeal shall be docketed as a new matter.