

IN THE SUPREME COURT OF THE STATE OF NEVADA

JEREMY SETTLES,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 54026

**FILED**

**JAN 08 2010**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

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

We conclude that the district court did not err by determining that the petition was not verified, and therefore, denying the petition was the correct result.<sup>1</sup> However, failing to verify a petition is not a jurisdictional defect and a petitioner may cure the defect by filing an amended petition containing a verification statement. See Miles v. State, 120 Nev. 383, 387, 91 P.3d 588, 590 (2004). Because the petition was denied without any reference to whether the denial was with or without prejudice, we cannot affirm the order of the district court. Therefore, we

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<sup>1</sup>We disagree with the district court's determination that appellant's petition was not in substantial compliance with the form set forth in NRS 34.735.

reverse and remand the matter to the district court to permit appellant to file an amended petition curing the defect.<sup>2</sup>

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

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

Hardesty, J.  
Hardesty

Douglas, J.  
Douglas

Pickering, J.  
Pickering

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<sup>2</sup>We note that the amended petition would relate back to the filing date of March 25, 2009. See Miles, 120 Nev. at 387, 91 P.3d at 590. We further note that the district court may refuse to allow a request to file a supplemental petition that adds additional substantive claims. See NRS 34.750.

<sup>3</sup>We have considered all proper person documents filed or received in this matter. We conclude that appellant is only entitled to the relief described herein.

cc: Hon. Michael Villani, District Judge  
Jeremy Settles  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk