

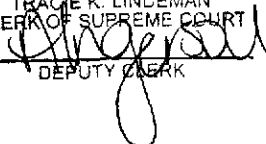
IN THE SUPREME COURT OF THE STATE OF NEVADA

LAMARTICE WRIGHT A/K/A
KEYVONTE KEYA LAY,
Appellants,
vs.
THE STATE OF NEVADA,
Respondent.

No. 64117

FILED

FEB 13 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This is a proper person appeal from an order denying a post-conviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; David B. Barker, Judge.

Appellant filed a timely petition on June 7, 2013. In his petition, appellant raised a number of claims of ineffective assistance of counsel, including a claim that counsel failed to inform appellant about a plea offer. The district court denied the petition without appointing counsel or conducting an evidentiary hearing.


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 those issues presented, whether the petitioner is unable to

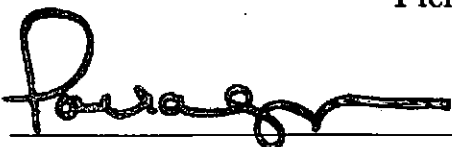
¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See *Luckett v. Warden*, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

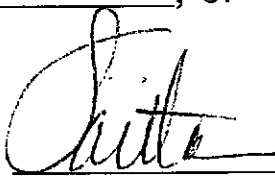
comprehend the proceedings, and whether counsel is necessary to proceed with discovery. The determination of whether counsel should be appointed is not necessarily dependent upon whether a petitioner raises issues in a petition which, if true, would entitle the petitioner to relief.

We conclude that the facts in this case weighed in favor of appointing counsel. Appellant's petition arose out of a trial with issues that require development of facts outside the record. For example, there is nothing in the record regarding whether a plea offer was made by the State, and if a plea offer had been made, whether it was conveyed to appellant by his counsel. *See Missouri v. Frye*, 566 U.S. ___, 132 S. Ct. 1399 (2012). Appellant is serving a significant sentence. In addition, appellant moved for the appointment of counsel and claimed that he was indigent. The failure to appoint post-conviction counsel prevented a meaningful litigation of the petition. Thus, 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. Accordingly, we

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


_____, J.
Pickering


_____, J.
Parraguirre


_____, J.
Saitta

cc: Hon. David B. Barker, District Judge
Lamartice Wright
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk