

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DARRYL L. JONES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 70096

FILED

OCT 19 2016

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

*ORDER AFFIRMING IN PART, REVERSING IN PART AND
REMANDING*

This is an appeal from an order of the district court dismissing two petitions for writs of habeas corpus. Eighth Judicial District Court, Clark County; Douglas Smith, Judge.

On October 27, 2015, appellant Darryl Jones filed a pro se petition for a writ of habeas corpus. Thereafter, on November 27, 2015, the district court appointed counsel to represent Jones pursuant to NRS 34.750(1). After holding status check hearings on December 9, 2015, and January 13, 2016, the district court granted continuances to Jones and set another status check for May 11, 2016. On January 5, 2016, Jones filed a pro se amended petition. On March 16, 2016, the district court entered an order dismissing both the October 27, 2015, petition and the January 5, 2016, petition.


On appeal, Jones argues the district court erred by denying his October 27, 2015, petition without allowing him to supplement the petition with the help of counsel. We conclude the district court erred by denying the petition without allowing counsel to supplement. The district court determined Jones was indigent and that the appointment of counsel


was necessary. See NRS 34.750(1). NRS 34.750(3) allows counsel to file supplemental pleadings. The record before this court indicates the district court set a status hearing for May 11, 2016, so counsel could file a supplemental pleading. Therefore, the district court erred by dismissing the petition before counsel was required to file the supplemental pleading. Accordingly, we reverse the district court's order dismissing the October 27, 2015, petition.

Jones fails to argue it was error for the district court to dismiss his January 5, 2016, petition, and therefore, we affirm the district court's dismissal of that petition. Accordingly, we

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


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Douglas Smith, District Judge
Christopher R. Oram
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk