

IN THE SUPREME COURT OF THE STATE OF NEVADA

PEDRO RODRIGUEZ,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 70969

**FILED**

MAY 05 2017

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

*ORDER OF REVERSAL AND REMAND*

This is an appeal from an order of the district court denying a postconviction petition for a writ of habeas corpus in a death penalty case. Second Judicial District Court, Washoe County; Lynne K. Simons, Judge.

Rodriguez's sole contention on appeal is that the district court erred in dismissing his postconviction petition without appointing counsel to represent him pursuant to NRS 34.820. We agree. NRS 34.820(1) mandates the appointment of counsel when a petitioner who is under a sentence of death files the first postconviction petition challenging his "conviction or sentence." (Emphasis added.) Although Rodriguez filed a prior postconviction petition, he obtained relief and was granted a new sentencing hearing, making the instant petition his first challenging his current death sentence and the proceedings that resulted in that sentence. We acknowledge that Rodriguez's pro se petition includes bare allegations that are unsupported by specific factual allegations. *See Hargrove v. State*, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984) (stating that "bare" or "naked" allegations in a postconviction petition do not warrant relief). However, as he was entitled to the appointment of counsel under NRS

34.820(1) upon the filing of the petition, the district court's decision to dismiss on this basis was erroneous. Accordingly, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for the appointment of counsel and further proceedings.

Cherry, C.J.  
Cherry

Hardesty, J.  
Hardesty

Douglas, J.  
Douglas

Parraguirre, J.  
Parraguirre

Gibbons, J.  
Gibbons

Pickering, J.  
Pickering

Stiglich, J.  
Stiglich

cc: Hon. Lynne K. Simons, District Judge  
Pedro Rodriguez  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk