

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JASON LAMARS LEE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 72216

FILED

FEB 14 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

Jason Lamars Lee appeals from a district court order denying the postconviction petition for a writ of habeas corpus he filed on October 12, 2016.¹ Eighth Judicial District Court, Clark County; Susan Johnson, Judge.

First, Lee asserts the district court erred by denying his petition without appointing postconviction counsel because his claims raised facts that fell outside the record and required further investigation. The Nevada Supreme Court has recently “stress[ed] the decision whether to appoint counsel under NRS 34.750(1) is not necessarily dependent upon whether a pro se petitioner has raised claims that clearly have merit or would warrant an evidentiary hearing[;]” instead, this decision turns on whether the appointment of counsel is essential to ensure the petitioner has “a

¹This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).


meaningful opportunity to present his or her claims to the district court.” *Renteria-Novoa v. State*, 133 Nev. ___, ___, 391 P.3d 760, 762 (2017). Here, the record demonstrates Lee had a meaningful opportunity to present his claims to the district court. We conclude the district court did not abuse its discretion by denying his petition without appointing postconviction counsel.

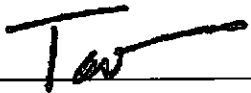
Next, Lee asserts the district court erred by denying his petition without conducting an evidentiary hearing because several of his claims required further investigation. A petitioner is entitled to an evidentiary hearing only if he has asserted specific factual allegations that are not belied or repelled by the record and, if true, would entitle him to relief. *Nika v. State*, 124 Nev. 1272, 1300-01, 198 P.3d 839, 858 (2008). We review the district court’s determination that a petitioner is not entitled to an evidentiary hearing for abuse of discretion. *Berry v. State*, 131 Nev. ___, ___, 363 P.3d 1148, 1156 (2015). Here, the record demonstrates Lee’s claims were either bare allegations or would not have entitled him to relief. We conclude the district court did not abuse its discretion by denying Lee’s petition without an evidentiary hearing.

Finally, Lee asserts the district court erred by making factual findings without any investigation or inquiry. The district court order plainly states the factual findings were based on the briefs, transcripts, and documents filed in this matter. We conclude the district court did not err

by relying on this record.

Having concluded Lee is not entitled to relief, we
ORDER the judgment of the district court AFFIRMED.²


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Susan Johnson, District Judge
Jason Lamars Lee
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

²We have considered the letter Lee filed in this matter on September 22, 2017. We conclude he substantially complied with the filing instructions for informal briefs and no further action is required.