

IN THE SUPREME COURT OF THE STATE OF NEVADA

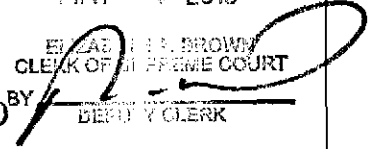
DAIVION DEVONTE MOORE A/K/A  
DAIVION DEVANTA MOORE,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 75940

FILED

MAY 16 2019

ERIN L. BROWN  
CLERK OF THE SUPREME COURT

ORDER OF REVERSAL AND REMAND BY   
ERIN L. BROWN  
CLERK

This is a pro se appeal from a district court order denying appellant's postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Michael Villani, Judge.


Appellant filed a timely petition on January 12, 2018. After conducting an evidentiary hearing, the district court denied the petition without appointing counsel. We conclude that the district court erred in denying the petition without appointing counsel for the reasons discussed below.

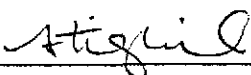
NRS 34.750 provides for the discretionary appointment of postconviction counsel and sets forth a nonexhaustive list of factors which the court may consider in exercising its discretion: the petitioner's indigency, the severity of the consequences to the petitioner, the difficulty of the issues presented, whether the petitioner can comprehend the proceedings, and whether counsel is necessary to proceed with discovery. Whether counsel should be appointed is not necessarily dependent upon whether a petitioner raises issues that, if true, would entitle the petitioner to relief. *See Renteria-Novoa v. State*, 133 Nev. 75, 77 391 P.3d 760, 762 (2017).

Here, the factors favor the appointment of counsel. Appellant filed a motion to appoint counsel, and the record supports a claim of

indigency as appellant was represented by appointed counsel at trial. Appellant is serving a significant sentence. Appellant's claims require factual development outside the record. The failure to appoint postconviction counsel prevented a meaningful litigation of the petition and resulted in appellant being unable to provide evidence supporting his claims at the evidentiary hearing. Accordingly, we

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

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Stiglich

  
\_\_\_\_\_, J.  
Silver

cc: Hon. Michael Villani, District Judge  
Daivion Devonte Moore  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk

