

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

SABRINA STARR DUMAS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 77778-COA

FILED

JUL 24 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

Sabrina Starr Dumas appeals from an order of the district court dismissing a postconviction petition for a writ of habeas corpus.¹ Second Judicial District Court, Washoe County; Jerome M. Polaha, Judge.

Dumas filed a timely petition on September 13, 2018. The district court denied the petition without appointing counsel. We conclude 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 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 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


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


petition which, if true, would entitle the petitioner to relief. *Renteria-Novoa v. State*, 133 Nev. 75, 77, 391 P.3d 760, 762(2017).

Dumas' petition arose out of a trial with potentially complex issues, and he was represented by appointed counsel at trial. Dumas is serving a significant sentence. In addition, Dumas moved for the appointment of counsel and claimed that he was indigent. From the documents filed below, it appears Dumas does not comprehend the proceedings. Thus, the failure to appoint postconviction counsel deprived Dumas of a meaningful opportunity to present his claims to the district court. *See id.* Therefore, we reverse the district court's dismissal of Dumas' petition and remand this matter for the appointment of counsel to assist Dumas in the postconviction proceedings to ensure Dumas' claims are fairly presented to the district court. *See id.*; NRS 34.750(3). 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.
Tao


_____, J.
Bulla

cc: Hon. Jerome M. Polaha, District Judge
Sabrina Starr Dumas
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk