

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ANTHONY TERRELL BARR,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 83575-COA

FILED

MAY 05 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

Anthony Terrell Barr appeals from an order of the district court denying his May 24, 2021, postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Jasmin D. Lilly-Spells, Judge.

Barr claims the district court erred by denying his petition without having appointed postconviction counsel. NRS 34.750 provides for the discretionary appointment of postconviction counsel and sets forth a nonexhaustive list of factors that 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 petition which, if true, would entitle the petitioner to relief, and we review the district court's decision for an abuse of discretion. *See Renteria-Novoa v. State*, 133 Nev. 75, 77-78, 391 P.3d 760, 762 (2017).

The district court noted that Barr was indigent but concluded that he was not entitled to the appointment of counsel because his petition

was subject to summary dismissal. However, because Barr's petition was a first petition, it was not subject to summary dismissal, see NRS 34.745(1), (4), and he met the threshold requirements for the appointment of counsel. See NRS 34.750(1); *Renteria-Novoa*, 133 Nev. at 76, 391 P.3d at 761. Barr's petition arose out of a jury trial with potentially complex issues, and he is serving a significant sentence of life without the possibility of parole. Moreover, as the district court found, Barr's petition contained only bare claims without any underlying facts to support them. It thus appears that Barr had difficulties comprehending the postconviction proceedings. In light of those factors, we conclude the failure to appoint postconviction counsel prevented a meaningful litigation of the petition, and we cannot conclude the district court did not err by denying the petition without appointing counsel. Thus, we reverse the district court's denial of Barr's petition and remand this matter for the appointment of counsel to assist Barr in the postconviction proceedings. Accordingly, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.¹


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

¹We have considered Barr's May 3, 2022, document entitled "Judicial Notice." We conclude Barr is only entitled to the relief described herein.

cc: Hon. Jasmin D. Lilly-Spells, District Judge
Anthony Terrell Barr
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk