

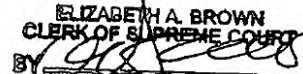
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GUSTAVO RAMOS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 84819-COA

FILED

FEB 15 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

Gustavo Ramos appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on January 12, 2022. Eighth Judicial District Court, Clark County; Tierra Danielle Jones, Judge.

Ramos argues that the district court erred by denying his motion to appoint postconviction counsel. The district court denied Ramos' timely petition without conducting an evidentiary hearing or appointing counsel. We conclude the district court erred by 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 that the court may consider in making its determination to appoint counsel: the severity of the consequences to the petitioner, the difficulty of the 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 that, 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, 76-77, 391 P.3d 760, 761-62 (2017).

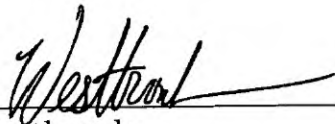
Because Ramos' petition was a first petition not subject to summary dismissal, see NRS 34.745(1), (4), and he was represented by appointed counsel at the trial and appellate levels and claimed continued indigency, Ramos appears to have met the threshold requirements for the appointment of counsel. See NRS 34.750(1); *Renteria-Novoa*, 133 Nev. at 76, 391 P.3d at 761. The district court denied the request for counsel because it found that the issues raised in Ramos' petition were not complex, Ramos appeared to comprehend the proceedings, and discovery with the aid of counsel was not necessary.

However, Ramos' petition arose out of a trial with potentially complex issues, and Ramos is serving a significant sentence of life without the possibility of parole. In addition, Ramos contended that he is legally blind and that issue caused him difficulties in pursuing postconviction relief. Finally, at least one of Ramos' claims—that counsel was ineffective for failing to seek disqualification of the trial judge because the judge was involved in this matter when employed as a deputy district attorney—required the assistance of counsel to proceed with discovery. Based on the information before this court, we conclude that the failure to appoint postconviction counsel prevented a meaningful litigation of the petition. Thus, we reverse the district court's denial of Ramos' petition and remand this matter for the appointment of counsel to assist Ramos 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.
Bulla


_____, J.
Westbrook

cc: Hon. Tierra Danielle Jones, District Judge
Gustavo Ramos
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

¹This order constitutes our final disposition of this appeal. Any subsequent appeal shall be docketed as a new matter.