

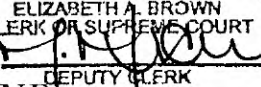
IN THE SUPREME COURT OF THE STATE OF NEVADA

SELVIN EDUARDO ZECENA-VALDEZ,
Appellant,
vs.
TIM GARRETT, WARDEN; AND THE
STATE OF NEVADA,
Respondents.

No. 86289

FILED

NOV 17 2023

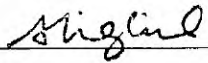
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

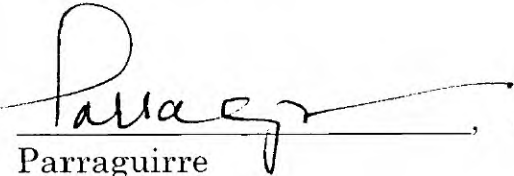
This is an appeal from a district court order dismissing a postconviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Lynne K. Jones, Judge. Appellant Selvin Eduardo Zecena-Valdez argues that the district court erred by dismissing his postconviction petition for lack of a verification without giving him an opportunity to cure the verification defect. We agree.

After Zecena-Valdez timely filed the postconviction petition, the district court ordered the State to respond. The State filed an answer denying the factual allegations in the petition. Six months later, and over a year after the petition was filed, the district court sua sponte dismissed Zecena-Valdez's petition. The district court found that the petition lacked the verification mandated by NRS 34.370(1) and was thus defective and not cognizable. However, a failure to comply with the verification requirement is a technical defect that can be cured. *See Miles v. State*, 120 Nev. 383, 387, 91 P.3d 588, 590 (2004). As such, the district court should have provided Zecena-Valdez with notice of the defect and an opportunity to cure it before dismissing the petition. *See id.* We therefore conclude the district court erred in summarily dismissing the petition without affording Zecena-Valdez a reasonable opportunity to cure the defect, and 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.
Stiglich


_____, J.
Lee


_____, J.
Parraguirre

cc: Hon. Lynne K. Jones, District Judge
The Law Office of Kristina Wildeveld & Associates
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk