

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RAYMOND GASPER A/K/A RAYMOND  
BENNIE GLASPER, II,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 89653-COA

**FILED**

OCT - 7 2025

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

*ORDER OF REVERSAL AND REMAND*

This is a pro se appeal from a district court order denying a petition to establish factual innocence. Eighth Judicial District Court, Clark County; Jacqueline M. Bluth, Judge.

Appellant Raymond Gasper argues the district court erred by denying his petition to establish factual innocence pursuant to NRS 34.900 *et seq.* without conducting a hearing. Under the postconviction remedy established by the legislature in NRS 34.900 *et seq.*, a court reviewing a petition to establish factual innocence must first determine whether the petition meets the pleading requirements in NRS 34.960(2). To satisfy NRS 34.960(2), the petition “must contain an assertion of factual innocence [made] under oath by the petitioner and must aver, with supporting affidavits or other credible documents, that . . . [n]ewly discovered evidence

exists that is specifically identified and, if credible, establishes a bona fide issue of factual innocence.” NRS 34.960(2)(a). Among other pleading requirements, such newly discovered evidence cannot rely “solely upon recantation of testimony by a witness against the petitioner.” NRS 34.960(2)(b)(2). If the petition does not meet these pleading requirements, the district court “shall dismiss the petition without prejudice.” NRS 34.960(4)(a).

The “newly discovered evidence” Gasper relied on in his petition to establish factual innocence was the recantation of testimony by a witness against Gasper. The district court found that Gasper had “not met the burden of proof by offering any new evidence proving that he did not engage in the conduct for which he plead[ed] guilty” and failed “to meet the burden necessary to establish factual innocence as set forth in NRS 34.960[2].” However, rather than dismissing the petition without prejudice pursuant to NRS 34.960(4)(a), the district court “denied” the petition. The district court’s denial of the petition was in error because, upon concluding the petition did not satisfy the pleading requirements of NRS 34.960(2),<sup>1</sup> the district court’s resolution of the petition was limited to dismissal of the

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<sup>1</sup>We make no determination with respect to the merits of the district court’s conclusion. *See generally Sanchez v. State*, 140 Nev., Adv. Op. 78, 561 P.3d 35 (2024).

petition without prejudice. NRS 34.960(4)(a); *see also Sanchez v. State*, 140 Nev., Adv. Op. 78, 561 P.3d 35, 38 (2024). Accordingly, we

ORDER the judgment of the district court REVERSED and REMAND this matter to the district court to dismiss Gasper's petition to establish factual innocence without prejudice.

  
\_\_\_\_\_, C.J.  
Bulla

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

  
\_\_\_\_\_, J.  
Westbrook

cc: Hon. Jacqueline M. Bluth, District Judge  
Raymond Gasper  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk