

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ZACKERY SHAWN MICHAEL
POTTEIGER,
Appellant,
vs.
N. BREITENBACH, L.C.C. WARDEN,
AND THE STATE OF NEVADA,
Respondents.

No. 91534-COA

ORDER OF AFFIRMANCE

Zackery Shawn Michael Potteiger appeals from a district court order denying a postconviction petition for writ of habeas corpus filed on August 25, 2025.¹ Tenth Judicial District Court, Churchill County; Thomas L. Stockard, Judge.

In his pro se brief on appeal, Potteiger lists the three claims he raised in his petition below. However, he fails to provide any argument regarding these claims or how the district court erred when it denied them. This was improper; and we decline to consider these claims on appeal. *See Maresca v. State*, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987) (“It is appellant’s responsibility to present relevant authority and cogent argument; issues not so presented need not be addressed by this court.”); NRAP 28(e)(2) (prohibiting

¹We direct the clerk of this court to correct the caption to conform to the caption in this order.

incorporation by reference). Instead, Potteiger presents argument in his prose brief regarding numerous claims that were not raised in his petition below. Because these claims were not raised below, we decline to consider them for the first time on appeal. *See State v. Wade*, 105 Nev. 206, 209 n.3, 772 P.2d 1291, 1293 n.3 (1989) (“This court will not consider issues raised for the first time on appeal.”).

Potteiger also appears to challenge the district court’s failure to appoint counsel. The appointment of counsel in this matter was discretionary. *See* NRS 34.750(1). When deciding whether to appoint counsel, the district court may consider several factors, including whether the issues presented are difficult, whether the petitioner is unable to comprehend the proceedings, or whether counsel is necessary to proceed with discovery. *Id.*; *Renteria-Novoa v. State*, 133 Nev. 75, 76, 391 P.3d 760, 761 (2017). Potteiger filed for leave to proceed in forma pauperis and his petition was a first petition not subject to summary dismissal. *See* NRS 34.745(3). Potteiger met the threshold requirements for the appointment of counsel. *See* NRS 34.750(1); *Renteria-Novoa*, 133 Nev. at 76, 391 P.3d at 760-61. However, the issues in this matter were not difficult, Potteiger was able to comprehend the proceedings, and discovery with the aid of counsel was not necessary. Therefore, we conclude the district court did not err by failing to appoint counsel.² Accordingly, we

²On April 29, 2026, Potteiger filed a motion to appoint counsel for his appeal. Potteiger is not entitled to appointed counsel at the state’s expense in these postconviction appellate proceedings. *See Brown v. McDaniel*, 130 Nev. *continued on next page . . .*

ORDER the judgment of the district court AFFIRMED.



Bulla, C.J.



Gibbons, J.



Westbrook, J.

cc: Hon. Thomas L. Stockard, District Judge
Attorney General/Carson City
Churchill County District Attorney/Fallon
Zackery Shawn Michael Potteiger
Tenth District Court Clerk

565, 569, 331 P.3d 867, 870-71 (2014) (holding that “there is no constitutional or statutory right to the assistance of counsel in noncapital post-conviction proceedings”); *see also Coleman v. Thompson*, 501 U.S. 722, 755 (1991) (holding that a petitioner does not have the right to counsel on appeal from the denial of a postconviction habeas petition). Therefore, we deny this motion.