

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID J. TIFFANY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 57806

FILED

APR 11 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This is a proper person appeal from a district court order denying without prejudice a post-conviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Doug Smith, Judge.

Appellant filed a timely petition on November 23, 2010, NRS 34.726(1), in which he claimed that he received ineffective assistance of counsel. The district court did not consider any of appellant's claims on the merits, but rather denied the petition without prejudice because it was longer than 20 pages. The district court did not cite to any statute or rule which supports its denial of the petition due to its length.

¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

We conclude that the district court abused its discretion in denying the petition because it was longer than 20 pages. NRS chapter 34 does not contain any page limits for the grounds for relief that may be raised in a post-conviction petition for a writ of habeas corpus. In addition, the form petition set forth in NRS 34.735 provides that a petitioner must state every ground on which the petitioner claims he is being held unlawfully and a petitioner must support his claims with specific factual allegations. See also Hargrove v. State, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984). Further, NRS chapter 34 does not allow for a district court to dispose of a petition by denying it without prejudice. NRS 34.830(2).

As appellant must raise every ground upon which he wishes to challenge the judgment of conviction supported by specific facts, we conclude that the district court erred in denying the petition due to its length. Therefore, we reverse the order of the district court and remand for the district court to consider the claims raised in appellant's petition. After the district court reaches a decision on the petition, it must enter an order containing specific findings of fact and conclusions of law supporting its decision. NRS 34.830(1). Accordingly, we

ORDER the judgment of the district court REVERSED AND
REMAND this matter to the district court for proceedings consistent with
this order.²

Cherry, J.
Cherry

Gibbons, J.
Gibbons

Pickering, J.
Pickering

cc: Hon. Doug Smith, District Judge
David J. Tiffany
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

²We note that appellant filed a motion requesting the appointment of post-conviction counsel. As appellant has filed a lengthy petition which raised numerous and potentially complex claims, the district court may consider whether to appoint post-conviction counsel to aid in the post-conviction proceedings. NRS 34.750(1). We further note that any perceived defects in the petition may be cured by amendment to the petition. See Miles v. State, 120 Nev. 383, 387, 91 P.3d 588, 590 (2004).