

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALEXANDER UCEDA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 68525

FILED

MAR 17 2016

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

ORDER OF REVERSAL AND REMAND

This is a pro se appeal from an order of the district court denying appellant Alexander Uceda's postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Douglas Smith, Judge.

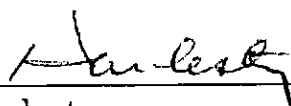
Uceda filed a timely petition on May 4, 2015. The district court denied the petition without appointing counsel. We conclude the district court abused its discretion by denying the petition without appointing counsel for the reasons discussed below.


NRS 34.750 provides for the discretionary appointment of postconviction counsel and sets forth the following factors which the court may consider in making its determination to appoint counsel: the petitioner's indigency, 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 in a petition which, if true, would entitle the petitioner to relief.

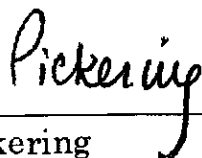
Uceda's conviction arose out of a jury trial, and his petition raised claims of ineffective assistance of counsel that may require

development outside the record. Uceda is serving a significant sentence. In addition, Uceda alleged he was in forma pauperis and moved for the appointment of postconviction counsel.¹ The failure to appoint postconviction counsel prevented meaningful litigation of the petition. Thus, we reverse the district court's denial of Uceda's petition and remand this matter for the appointment of counsel to assist Uceda 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.


Hardesty, J.


Saitta, J.


Pickering, J.

cc: Hon. Douglas Smith, District Judge
Alexander Uceda
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

¹At a hearing on the petition, Uceda's appellate counsel was allowed to withdraw; and Uceda's application to proceed in forma pauperis was granted. From the record, it appears the district court continued the matter for the appointment of counsel regarding the issue of ineffective assistance of counsel only, but at the subsequent hearing the district court advised that counsel was not needed to correct the judgment of conviction.