

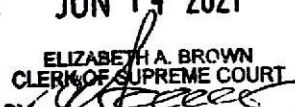
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RIGOBERTO CHAVEZ-SOLORZANO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 82211-COA

FILED

JUN 14 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

Rigoberto Chavez-Solorzano appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on July 24, 2020. Eighth Judicial District Court, Clark County; Eric Johnson, Judge.

Chavez-Solorzano claims the district court erred by denying his motion to appoint postconviction counsel. The district court denied Chavez-Solorzano's timely petition without conducting an evidentiary hearing or appointing counsel. We cannot conclude the district court did not abuse its discretion in denying Chavez-Solorzano's request for counsel for the reasons discussed below.

NRS 34.750 provides for the discretionary appointment of postconviction counsel and sets forth a nonexhaustive list of factors that 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 those 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 which would warrant an evidentiary hearing, as there may be cases where a language barrier may interfere with a petitioner's ability to understand the proceedings and sufficiently present a claim. *See Renteria-Novoa v. State*, 133 Nev. 75, 77-78, 391 P.3d 760, 762 (2017). We review the district court's decision for an abuse of discretion. *Id.* at 76, 391 P.3d at 760-61.


Because this petition was a first petition not subject to summary dismissal and it appears he would qualify for in forma pauperis status, *see* NRS 34.745(1), (4), Chavez-Solorzano met the threshold requirements for the appointment of counsel. *See* NRS 34.750(1); *Renteria-Novoa*, 133 Nev. at 76, 391 P.3d at 761. The district court denied the request for counsel because the issues in this matter were not complex and Chavez-Solorzano did not need counsel to proceed with discovery.

Chavez-Solorzano faced severe consequences: He was sentenced to a term of 4 to 12 years in prison as a result of his conviction. Further, Chavez-Solorzano did not appear to understand the proceedings. He required the use of an interpreter throughout the trial proceedings, and his petition raised only a bare claim and a claim belied by the record. Due to the severe consequences he faces, his language barrier, and his failure to understand the proceedings, the failure to appoint postconviction counsel for Chavez-Solorzano prevented a meaningful litigation of his petition. Thus, we reverse the district court's denial of Chavez-Solorzano's petition

and remand this matter for the appointment of counsel to assist Chavez-Solorzano 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.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Eric Johnson, District Judge
Rigoberto Chavez-Solorzano
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk