

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

PATROCINIO MENDOZA-PALACIOS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 88940-COA

FILED

MAY 15 2025

ELIZABETH A. BRICH
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

Patrocinio Mendoza-Palacios appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on March 12, 2024.¹ Eighth Judicial District Court, Clark County; Crystal Eller, Judge.

Mendoza-Palacios argues the district court erred by denying his motion to appoint postconviction counsel. NRS 34.750 provides for the discretionary appointment of postconviction counsel and sets forth a non-exhaustive list of factors that the court may consider in making its determination to appoint counsel: the severity of the consequences to the petitioner, the difficulty of the issues presented, the petitioner's ability to comprehend the proceedings, and the necessity of counsel 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 that, if true, would entitle the petitioner to relief. *See Renteria-Novoa v. State*, 133 Nev. 75, 77-78, 391 P.3d 760, 762 (2017). For example, in cases

¹The Honorable Deborah L. Westbrook did not participate in the decision in this matter.

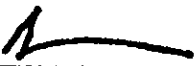
where a language barrier may have interfered with a petitioner's ability to comprehend the postconviction proceedings, "the petitioner may be unable to sufficiently present viable claims in his or her petition without the assistance of counsel." *Id.* at 77, 391 P.3d at 762. We review the district court's decision regarding the appointment of counsel for an abuse of discretion. *Id.* at 76, 391 P.3d at 760-61.

Mendoza-Palacios moved for the appointment of counsel and claimed he was indigent. Because Mendoza-Palacios appeared to be indigent and his petition was a first petition not subject to summary dismissal, *see* NRS 34.745(1), (3), Mendoza-Palacios 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 gave no reason for declining to appoint postconviction counsel; however, Mendoza-Palacios only submitted a preprinted counsel request form that did not include most of the relevant NRS 34.750 factors or the information he raises on appeal relevant to his ability to understand the proceedings.

Mendoza-Palacios is serving an aggregate sentence of 20 years to life in prison. In addition, Mendoza-Palacios did not appear to understand the proceedings. In pleadings he filed on appeal, Mendoza-Palacios contends he has "no command of the English language" and is mentally deficient. These contentions are supported by the record before this court: Mendoza-Palacios had the assistance of a Spanish-language interpreter during the trial-level proceedings and signed a Spanish-language copy of the written plea agreement. Further, Mendoza-Palacios was determined to be incompetent during portions of those proceedings and, as the district court found, Mendoza-Palacios's petition contained only bare claims.

Based on the facts of this case—including the severe consequences Mendoza-Palacios faces, the obvious language barrier, and the previous incompetency determination—and on the potential impact of these facts on Mendoza-Palacios's ability to understand the proceedings, we conclude the failure to appoint postconviction counsel for Mendoza-Palacios prevented the meaningful litigation of his petition. Thus, we reverse the district court's denial of Mendoza-Palacios's petition and remand this matter for the appointment of counsel to assist Mendoza-Palacios 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.
Bulla


_____, J.
Gibbons

cc: Hon. Crystal Eller, District Judge
Patrocinio Mendoza-Palacios
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk