

Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

SUPREME COURT DOCKET NO. 2016-370

JULY TERM, 2017

Nathan Dunavin	}	APPEALED FROM:
	}	
v.	}	Superior Court, Windsor Unit,
	}	Civil Division
	}	
Lisa Menard, Commissioner	}	DOCKET NO. 453-9-16 Wrcv

Trial Judge: Robert P. Gerety, Jr.

In the above-entitled cause, the Clerk will enter:

Petitioner appeals pro se from the trial court’s denial of his petition for a writ of habeas corpus. He argues that the court erred in denying his request to continue the hearing to allow counsel to be appointed. The State concedes error on this point. It agrees that the case should be remanded.

The record indicates that petitioner informed the court several times prior to the hearing that he wanted to proceed pro se, and that petitioner declined the court’s referral to the Prisoners’ Rights Office. Nonetheless, by the time of the expedited hearing on his habeas corpus petition several days later, petitioner had made multiple requests for counsel and had clearly changed his mind. Indigent inmates have a limited statutory right to counsel in habeas corpus proceedings. See 13 V.S.A. §§ 5232(2), 5233(b); *In re Bailey*, 2009 VT 122, ¶ 17, 187 Vt. 176. Because petitioner might be entitled to counsel, we reverse and remand the court’s decision to allow the court to reconsider petitioner’s request for appointed counsel and to determine whether a new hearing is warranted after doing so. We do not address petitioner’s additional arguments concerning his ineffective-assistance-of-counsel claims. These claims were dismissed by the trial court at petitioner’s request because they were filed in the wrong court.

Reversed and remanded for additional proceedings.

BY THE COURT:

Paul L. Reiber, Chief Justice

Harold E. Eaton, Jr., Associate Justice

Karen R. Carroll, Associate Justice