

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

FERNANDO ENRIQUE CAMACHO,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 71694

**FILED**

SEP 13 2017

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER OF REVERSAL AND REMAND*

Fernando Enrique Camacho appeals from an order of the district court denying his June 5, 2016, postconviction petition for a writ of habeas corpus.<sup>1</sup> Eighth Judicial District Court, Clark County; Kathleen E. Delaney, Judge.


The district court denied Camacho's petition for lack of jurisdiction, finding he was not "under sentence" as required by NRS 34.724(1) because he had been released on parole prior to filing his petition. We give deference to the district court's factual findings when supported by substantial evidence in the record but review the court's application of the law to those facts de novo. *Cf. Lader v. Warden*, 121 Nev. 682, 686, 120 P.3d 1164, 1166 (2005) (applying this approach in reviewing claims of ineffective assistance of counsel). The district court found that Camacho expired his sentence before he filed his petition. However, the record on appeal indicates only that Camacho was paroled prior to filing his petition, not that he had expired his sentence. And an offender on parole is "under a sentence


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<sup>1</sup>This appeal has been submitted for decision without oral argument and we conclude the record is sufficient for our review and briefing is unwarranted. NRAP 34(f)(3), (g).

of imprisonment” for purposes of NRS 34.724(1). *Coleman v. State*, 130 Nev. 190, 193-94, 321 P.3d 863, 866 (2014). We therefore conclude the district court erred in denying Camacho’s petition for lack of jurisdiction, and we

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

  
\_\_\_\_\_, C.J.  
Silver

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Gibbons

cc: Hon. Kathleen E. Delaney, District Judge  
Fernando Enrique Camacho  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk

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<sup>2</sup>Because of the relief described herein, we do not consider documents Camacho has filed in this matter.