

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RUDY M. BARRAZA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 73138

FILED

MAY 15 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Rudy M. Barraza appeals from a second amended judgment of conviction.<sup>1</sup> Fifth Judicial District Court, Nye County; Kimberly A. Wanker, Judge.

Barraza pleaded guilty to stop required on signal of a peace officer. The district court adjudicated Barraza a habitual criminal, sentenced him to serve a term of 10 to 25 years in prison under the large habitual criminal enhancement, and credited Barraza with 353 days of presentence credits.

On October 21, 2016, Barraza filed a motion in the district court in which he sought additional presentence credits. In his motion, Barraza acknowledged he was in custody during the time period at issue for a separate conviction for possession of personal identifying information, but requested the district court to apply credit from that time to his sentence for this matter. The district court then entered a second amended judgment of conviction applying a total of 355 presentence credits to Barraza's


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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).

sentence, noting Barraza was in custody for a separate conviction during the time period at issue in Barraza's motion.

The record before this court supports the district court's finding that Barraza was in custody for a different offense during the time period covering the requested presentence credits. Thus, Barraza was not eligible to have credits from that time period applied toward his sentence in this matter. *See* NRS 176.055(1). Therefore, the district court appropriately denied Barraza's request for additional presentence credits covering that time period, and we

ORDER the second amended judgment of conviction  
AFFIRMED.

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

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

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

cc: Hon. Kimberly A. Wanker, District Judge  
Rudy M. Barraza  
Attorney General/Carson City  
Nye County District Attorney  
Nye County Clerk