

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOSE LUIS HERNANDEZ,  
Appellant,  
vs.  
JAMES DZURENDA, DIRECTOR,  
NEVADA DEPARTMENT OF  
CORRECTIONS; AND HAROLD  
WICKHAM, WARDEN, WARM  
SPRINGS CORRECTIONAL CENTER,  
Respondents.

No. 73690

**FILED**

JUL 17 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Jose Luis Hernandez appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on September 20, 2016.<sup>1</sup> First Judicial District Court, Carson City; James Todd Russell, Judge.

Hernandez claimed the Nevada Department of Corrections had failed to apply the statutory credits he earned pursuant to NRS 209.4465(1)(c). However, the record demonstrates Hernandez was not "in the custody of the Division of Parole and Probation of the Department of


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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).

Public Safety pursuant to NRS 209.4886 or 209.4888.” NRS 209.4465(1)(c) (emphasis added). Therefore, he is not entitled to relief, and we

ORDER the judgment of the district court AFFIRMED.<sup>2</sup>

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

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

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

cc: Hon. James Todd Russell, District Judge  
Jose Luis Hernandez  
Attorney General/Carson City  
Carson City Clerk

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<sup>2</sup>We conclude the district court did not abuse its discretion by declining to appoint postconviction counsel. See NRS 34.750(1); *Renteria-Nova v. State*, 133 Nev. \_\_\_, \_\_\_, 391 P.3d 760, 760-61 (2017).