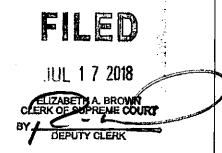
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

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

No. 73690



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. 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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¹This 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.²

Silver

Tao

Tao

Gibbons

C.6

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

²We conclude the district court did not abuse its discretion by declining to appoint postconviction counsel. See NRS 34.750(1); Renteria-Novoa v. State, 133 Nev. ___, ___, 391 P.3d 760, 760-61 (2017).