

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ANTHONY CLARKE,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 77378-COA

**FILED**

**APR 29 2019**

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

*ORDER OF AFFIRMANCE*

Anthony Clarke appeals from an order of the district court dismissing a “petition for writ of habeas corpus NRS 34.360.”<sup>1</sup> Second Judicial District Court, Washoe County; Jerome M. Polaha, Judge.

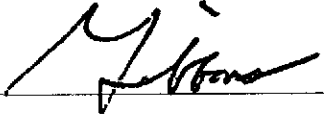
In his October 9, 2018, petition, Clarke contended the State lacked jurisdiction to prosecute him because the Nevada Revised Statutes are invalid. Clarke also asserted the district attorney and a justice of the peace did not post a required bond when they took office. However, Clarke’s claims were not within the scope of a petition for a writ of habeas corpus filed pursuant to NRS 34.360 because neither claim “inquire[d] into the cause of [his] imprisonment or restraint.” NRS 34.360. The cause of Clarke’s imprisonment, as revealed by the record before this court, was the judgment of conviction filed on January 24, 2018, for Clarke’s conviction of


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<sup>1</sup>This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).

sale of a controlled substance. Therefore, the district court properly denied relief, and we

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

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

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

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. Jerome M. Polaha, District Judge  
Anthony Clarke  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk

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<sup>2</sup>The district court denied the petition in part based upon application of rules contained in NRS 34.730 and NRS 34.810. However, those statutes do not apply to petitions for a writ of habeas corpus filed pursuant to NRS 34.360. See NRS 34.720 (stating NRS 34.720 through NRS 34.830 only apply to postconviction petitions for a writ of habeas corpus challenging either a judgment of conviction or sentence in a criminal case or the computation of time served pursuant to a judgment of conviction). Nevertheless, because the record demonstrated Clarke was not entitled to relief, we affirm the district court's decision to deny the petition. See *Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970).