

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOSE LUIS HERNANDEZ,  
Appellant,  
vs.  
HAROLD WICKHAM, WARDEN,  
Respondent.

No. 70971

**FILED**

DEC 14 2016

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY: *[Signature]*  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Appellant Jose Luis Hernandez appeals from a district court order denying the postconviction petition for a writ of habeas corpus he filed on May 3, 2016.<sup>1</sup> Second Judicial District Court, Washoe County; Jerome M. Polaha, Judge.

Hernandez claims the district court erred by summarily denying his habeas petition without first directing the State to file an answer and then allowing him to either respond to the State's answer or file an amended petition.

We review a district court's decision to order answers and supplemental pleadings for abuse of discretion. *See Miles v. State*, 120 Nev. 383, 385, 91 P.3d 588, 589 (2004) (observing the district court has broad authority to order answers and supplemental pleadings). To this end, NRS 34.745(1) states after a first postconviction habeas petition has been filed, the district court shall either order an answer and, if applicable, a return or "[t]ake other action that the judge or justice deems

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

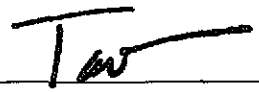
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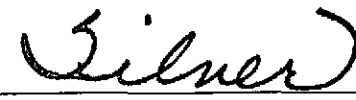
appropriate;" and NRS 34.750(5) states, "[n]o further pleadings may be filed except as ordered by the court."

The only relief Hernandez sought in his petition was credit for time served while on probation. The district court found the Nevada Supreme Court's holding in *State v. Second Judicial Dist. Court (Jackson)*, 121 Nev. 413, 418-19, 116 P.3d 834, 837 (2005) (an inmate is only entitled to credit for time actually spent in confinement), was dispositive of Hernandez' claim, it decided an answer and supplemental pleadings were unnecessary, and it determined an order summarily denying the petition was appropriate. We conclude the district court did not abuse its discretion in this regard, and we

ORDER the judgment of the district court AFFIRMED.

  
Gibbons, C.J.

  
Tao, J.

  
Silver, J.

cc: Hon. Jerome M. Polaha, District Judge  
Jose Luis Hernandez  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk