

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CHRISTOPHER LOWRY,
Appellant,
vs.
ISIDRO BACA, WARDEN,
Respondent.

No. 71321

FILED

MAR 23 2017

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

ORDER OF AFFIRMANCE

Appellant Christopher Lowry appeals from an order of the district court denying his postconviction petition for a writ of habeas corpus.¹ First Judicial District Court, Carson City; James E. Wilson, Judge.

Lowry first argues the district court erred in denying his June 27, 2016, petition. In his petition, Lowry claimed the Nevada Department of Corrections had improperly calculated his good-time credits by failing to apply credits towards his minimum term. The district court denied Lowry's petition, finding Lowry was not entitled to have the credit he sought deducted from his parole eligibility date. Specifically, the district court found that NRS 209.4465(8) exempts application of credit earned pursuant to NRS 209.4465(1) from applying towards eligibility for parole or reducing Lowry's minimum term because Lowry was convicted of a

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




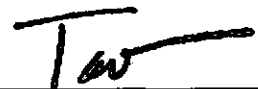
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category B felony and he was sentenced on January 12, 2016.² We conclude the district court did not err by concluding Lowry is not entitled to have the credit applied toward his eligibility for parole or deducted from his minimum sentence. *See* NRS 209.4465(8).

Second, Lowry argues the district court erred in denying the petition without allowing him the opportunity to oppose the State's motion to dismiss. As stated previously, Lowry's petition lacked merit. As his petition lacked merit and the district court properly denied the petition, Lowry cannot demonstrate he was prejudiced by any failure of the district court to permit Lowry additional time to oppose the State's motion to dismiss. Accordingly, we

ORDER the judgment of the district court AFFIRMED.³


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

²Lowry was convicted of attempted lewdness with a child under the age of 14, *see* NRS 193.330(1)(a)(1); NRS 201.230(2), and Lowry does not allege he committed his offenses prior to 2007.

³Lowry also appears to argue denying application of his credits towards his minimum terms violates his equal protection rights. Lowry did not raise this claim before the district court and we decline to consider it in the first instance on appeal. *See McNelton v. State*, 115 Nev. 396, 416, 990 P.2d 1263, 1276 (1999).

cc: Hon. James E. Wilson, District Judge
Christopher Lowry
Attorney General/Carson City
Carson City Clerk