

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

PRESTON WAYNE HELLER,
Appellant,
vs.
ISIDRO BACA, WARDEN,
Respondent.

No. 71509

FILED

MAY 17 2017

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

ORDER OF AFFIRMANCE

Preston Heller appeals from an order of the district court dismissing the postconviction petition he filed on June 3, 2016.¹ First Judicial District Court, Carson City; James Todd Russell, Judge.

Heller claimed the Nevada Department of Corrections (NDOC) has improperly declined to apply his statutory credits toward his minimum term. The district court concluded Heller was not entitled to relief because Heller is currently serving prison terms for three counts of burglary, category B felonies, *see* NRS 205.060(2), (4), committed in 2014, and for those reasons, the NDOC may only apply Heller's statutory credits toward his maximum term pursuant to NRS 209.4465(8). Given these circumstances, we conclude the district court did not err in denying this claim without holding an evidentiary hearing. *See Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984) (to warrant an evidentiary

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

hearing, a petitioner must allege specific facts that, if true, would entitle him to relief). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Silver, C.J.
Silver

Tao, J.
Tao

Gibbons, J.
Gibbons

cc: Hon. James Todd Russell, District Judge
Preston Wayne Heller
Attorney General/Carson City
Carson City Clerk