

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

PIERRE AUBUCHON,
Appellant,
vs.
ISIDRO BACA, WARDEN,
Respondent.

No. 71139

FILED

MAY 17 2017

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

ORDER OF AFFIRMANCE

Pierre Aubuchon appeals from an order of the district court dismissing a postconviction petition for a writ of habeas corpus.¹ First Judicial District Court, Carson City; James Todd Russell, Judge.

Aubuchon argues the district court erred in denying his June 14, 2016, petition. In his petition, Aubuchon claimed the Nevada Department of Corrections (NDOC) has improperly declined to apply his statutory credits toward his minimum terms. The district court concluded Aubuchon was not entitled to relief because Aubuchon was convicted of a category B felony, committed in 2014, and for those reasons, the NDOC may only apply Aubuchon's statutory credits toward his maximum term pursuant to NRS 209.4465(8).² Given these circumstances, we conclude the district court did not err in dismissing this claim.


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

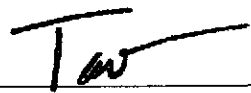
²The record demonstrates Aubuchon was convicted of attempted sexual assault, a category B felony. See NRS 193.330(1)(a)(1); NRS 200.366(2).

Next, Aubuchon argues the district court's order dismissing his petition fails to contain specific findings of fact as required by NRS 34.830(1). However, we conclude the district court's order contains findings with sufficient specificity to permit this court to appropriately review its decision on appeal. Therefore, we conclude Aubuchon fails to demonstrate he is entitled to relief.

Finally, Aubuchon appears to argue the district court erred in dismissing the petition without conducting an evidentiary hearing. To warrant an evidentiary hearing, a petitioner must raise claims that are supported by specific allegations that are not belied by the record, and if true, would entitle him to relief. *Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984). The district court concluded Aubuchon's claims did not meet that standard and the record before this court reveals the district court's conclusions in this regard were proper. Therefore, the district court properly dismissed the petition without conducting an evidentiary hearing.

Having concluded Aubuchon is not entitled to relief, we
ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. James Todd Russell, District Judge
Pierre Aubuchon
Attorney General/Carson City
Carson City Clerk