

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEPHEN DALE FRUTH,
Appellant,
vs.
ISIDRO BACA, WARDEN; AND THE
STATE OF NEVADA,
Respondents.

No. 71362

FILED

JUL 11 2017

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

ORDER OF AFFIRMANCE

This is a pro se appeal from a district court order denying appellant Stephen Fruth's July 27, 2016, postconviction petition for a writ of habeas corpus. First Judicial District Court, Carson City; William A. Maddox, Judge. Fruth challenged the computation of time he has served. We affirm.¹

Fruth claimed that the Nevada Department of Corrections is not deducting statutory credits from his minimum sentence pursuant to NRS 209.4465(7)(b). Fruth's claim lacks merit. NRS 209.4465(7) begins, "Except as otherwise provided in subsection[] 8," and NRS 209.4465(8) specifically excludes offenders convicted of category B felonies from deducting statutory credits from their minimum sentences. Fruth was convicted of a category B felony. See NRS 484.3792(2) (currently codified as NRS 484C.410(1)). Accordingly, Fruth was not entitled to the deduction of credits from his minimum sentence pursuant to NRS 209.4465(7)(b).

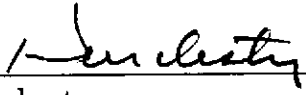
¹This appeal has been submitted for decision on the record without briefing or oral argument. NRAP 34(f)(3), (g); see also NRAP 31(d)(1); *Luckett v. Warden*, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

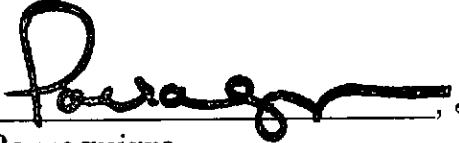
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Fruth also claimed that the application of NRS 209.4465(8) violates the Ex Post Facto Clause. Fruth's claim lacks merit. A requirement for an Ex Post Facto Clause violation is that the statute applies to events occurring before it was enacted. *Weaver v. Graham*, 450 U.S. 24, 29 (1981). NRS 209.4465(8) was enacted in 2007, *see* 2007 Nev. Stat., ch. 525, § 5, at 3177, years before Fruth's 2009 crime, and its application thus does not violate the Ex Post Facto Clause.

Having concluded Fruth's claims lack merit, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Stiglich

cc: Chief Judge, The First Judicial District Court
Hon. William A. Maddox, Senior Judge
Stephen Dale Fruth
Attorney General/Carson City
Carson City Clerk