

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JESS MARLOW,  
Appellant,  
vs.  
ISIDRO BACA, WARDEN,  
Respondent.

No. 71403

**FILED**

JUL 12 2017

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Jess Marlow appeals from a district court order dismissing the postconviction petition for a writ of habeas corpus he filed on July 28, 2016.<sup>1</sup> First Judicial District Court, Carson City; James E. Wilson, Judge.

In his petition, Marlow claimed the Nevada Department of Corrections had violated NRS 209.4465 and his constitutional rights to due process, equal protection, and freedom from ex post facto laws by failing to deduct statutory credits from his minimum sentences. The district court dismissed the petition because Marlow's claims were bare and conclusory and he failed to demonstrate the existence of a constitutional violation.


Marlow appears to claim the district court erred in its interpretation of NRS 209.4465. We have reviewed the statute and conclude the district court correctly determined Marlow was not entitled to have credits deducted from his minimum sentences because he committed his crimes after NRS 209.4465 was amended in 2007 and NRS

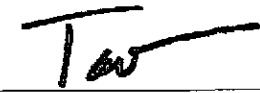
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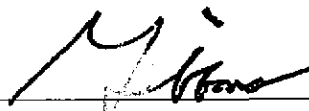
<sup>1</sup>This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).

209.4465(8)(d) excludes category B felons like Marlow from receiving credit toward their minimum sentence. See NRS 205.060(2); NRS 205.463(1); 2007 Nev. Stat., ch. 525, § 5, at 3177; see generally *Robert E. v. Justice Court of Reno Twp., Washoe Cnty.*, 99 Nev. 443, 445, 664 P.2d 957, 959 (1983) (“When presented with a question of statutory interpretation, the intent of the legislature is the controlling factor and, if the statute under consideration is clear on its face, a court cannot go beyond the statute in determining legislative intent.”). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Silver

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Gibbons

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