

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GERALD EUGENE CARTER, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 71163

FILED

JUL 12 2017

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

ORDER OF REVERSAL AND REMAND

Gerald Eugene Carter, Jr., appeals from a district court order denying the postconviction petition for a writ of habeas corpus he filed on August 11, 2016.¹ Eighth Judicial District Court, Clark County; Elizabeth Goff Gonzalez, Judge.

In his petition, Carter claimed the Nevada Department of Corrections violated his constitutional rights to due process and freedom from ex post facto laws by failing to deduct statutory credits from his prison sentence. Although the district court found Carter was “seeking relief related to credits earned after judgment while incarcerated,” it denied Carter’s petition without reaching the merits of his claim. We conclude the district court erred in this regard.

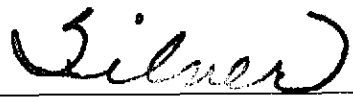
“A postconviction petition for a writ of habeas corpus is ‘the only remedy available to an incarcerated person to challenge the computation of time that he has served pursuant to a judgment of conviction.’” *Pangallo v. State*, 112 Nev. 1533, 1535, 930 P.2d 100, 102

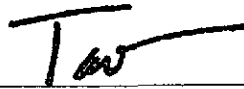
¹This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).

(1996) (quoting NRS 34.724(2)(c)), *overruled on other grounds by Griffin v. State*, 122 Nev. 737, 739, 137 P.3d 1165, 1166 (2006). Carter's claim that statutory credits were not being deducted from his sentence was a challenge to the computation of time he served and therefore it was properly raised in a postconviction petition for a writ of habeas corpus.

Because the district court failed to address the merits of Carter's claim, the district court's order must be reversed and the matter remanded for proper consideration and resolution. Accordingly, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.²


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Elizabeth Goff Gonzalez, District Judge
Gerald Eugene Carter, Jr.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

²This order constitutes our final disposition of this appeal and any subsequent appeal shall be docketed as a new matter.