

IN THE SUPREME COURT OF THE STATE OF NEVADA

DARREN A. LUNFORD,
Appellant,
vs.
ISIDRO BACA, WARDEN,
Respondent.

No. 72447

FILED

NOV 03 2017

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

ORDER VACATING AND REMANDING

This is a pro se appeal from a district court order denying a postconviction petition for a writ of habeas corpus.¹ First Judicial District Court, Carson City; James E. Wilson, Judge.

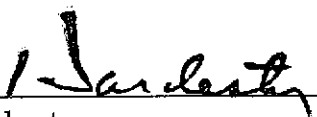
Appellant Darren Lunford argued that the credits he has earned pursuant to NRS 209.4465 must be applied to his parole eligibility as provided in NRS 209.4465(7)(b) (1997). In rejecting Lunford's claim, the district court did not have the benefit of our recent decision in *Williams v. State*, 133 Nev., Adv. Op. 75, ___ P.3d ___ (2017). There, we held that credits apply to parole eligibility as provided in NRS 209.4465(7)(b) (1997) where the offender was sentenced pursuant to a statute that requires a minimum term of not less than a set number of years but does not expressly mention parole eligibility. Lunford is serving a sentence pursuant to such a statute for a robbery committed on or between July 17, 1997, and June 30, 2007.²

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).

²Lunford was convicted of two counts of robbery with the use of a deadly weapon and received four consecutive prison sentences. According

See NRS 200.380(2) (setting forth sentencing range for robbery). Consistent with *Williams*, the credits that Lunford has earned pursuant to NRS 209.4465 should be applied to his parole eligibility for the sentence he is serving. The district court erred in ruling to the contrary.³ We therefore

ORDER the judgment of the district court VACATED AND REMAND this matter for the district court to reconsider its decision in light of *Williams*.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Stiglich

cc: Hon. James E. Wilson, District Judge
Darren A. Lunford
Attorney General/Carson City
Carson City Clerk

to the petition filed below, he has discharged two of the sentences and is serving the third sentence.

³The court cannot grant relief as to the sentences that Lunford has discharged. *Williams*, 133 Nev., Adv. Op. 75 at 10 n.7. Similarly, the court cannot grant relief if Lunford has appeared before the parole board on the sentence that he is serving at this time. It is unclear from the record before this court whether Lunford has appeared before the parole board on that sentence. The district court may consider any evidence in that respect on remand.