

IN THE SUPREME COURT OF THE STATE OF NEVADA

MANUEL A. VELASCO,  
Appellant,  
vs.  
HAROLD WICKHAM, WARDEN,  
Respondent.

No. 71179

**FILED**

OCT 30 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.<sup>1</sup> First Judicial District Court, Carson City; James Todd Russell, Judge.

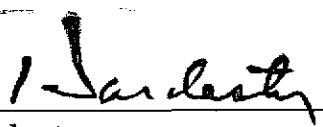
Appellant Manuel Velasco argued that the credits he has earned pursuant to NRS 209.4465 must be applied to his parole eligibility as provided in NRS 209.4465(7)(b) (1997). In rejecting Velasco's claim, the district court did not have the benefit of our recent decision in *Williams v. State*, 133 Nev., 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. Velasco is serving a sentence pursuant to such a statute, for attempted murder with use of a deadly weapon committed on or between July 17, 1997, and June 30, 2007. See NRS 193.330(1)(a)(1) (setting forth the sentencing range for attempt to commit a category A felony); NRS

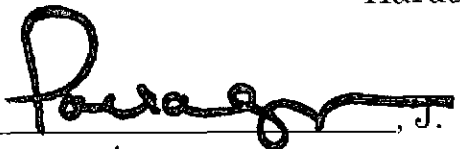
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<sup>1</sup>This appeal has been submitted for decision on the record without briefing or oral argument. NRAP 34(f)(3), (g); see also NRAP 31(d)(1); *Luckett v. Warden*, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

193.165 (1995) (providing sentence for weapon enhancement based on sentence for primary offense). Consistent with *Williams*, the credits that Velasco 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.<sup>2</sup> 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 Todd Russell, District Judge  
Manuel A. Velasco  
Attorney General/Carson City  
Carson City Clerk

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<sup>2</sup>If Velasco has already expired the sentence or appeared before the parole board on the sentence, then the court cannot grant any relief. *Williams*, 133 Nev., Adv. Op. 75 at 10 n.7. As such, the court cannot grant Velasco any relief with respect to the sentences for counts 1 and 3-12 in the judgment of conviction for district court case number C214161 because he has already been discharged or paroled from those sentences. It is unclear from the record whether Velasco has appeared before the parole board on the conviction for attempted murder with the use of a deadly weapon. The district court may consider any evidence in that respect on remand.