

IN THE SUPREME COURT OF THE STATE OF NEVADA

MATTHEW ZACHARY GREEN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 70802

FILED

OCT 30 2017

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

ORDER VACATING AND REMANDING


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

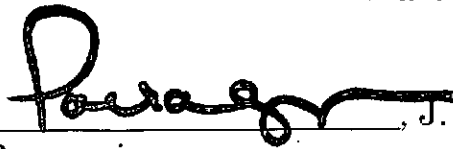
Appellant Matthew Zachary Green argues that the credits he has earned pursuant to NRS 209.4465 must be applied to his parole eligibility as provided in NRS 209.4465(7)(b) (1997). In rejecting Green's claim, the district court did not have the benefit of our recent decision in *Williams v. State*, 133 Nev., Adv. Op. 75, ___ P.3d ___ (2017).¹ 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. Green is serving a sentence pursuant to such a statute for a grand larceny committed on or

¹Having considered Green's pro se brief and given our decision in *Williams*, we conclude that a response is not necessary. NRAP 46A(c). This appeal therefore has been submitted for decision based on the pro se brief and the record. See NRAP 34(f)(3).

between July 17, 1997, and June 30, 2007.² See NRS 205.222 (setting forth penalties for grand larceny). Consistent with *Williams*, the credits that Green 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
Matthew Zachary Green
Attorney General/Carson City
Carson City District Attorney
Carson City Clerk

²We acknowledge that the charging document alleged that Green committed the offense of grand larceny on or between March 2007 and October 25, 2007, such that part of the offense may have been committed after June 30, 2007. Given the way the offense was charged, we conclude that the grand larceny offense falls within the parameters set forth in *Williams*.

³If Green 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. The record shows that Green has discharged the sentences for his two burglary convictions; therefore, no relief can be granted as to those sentences. It is unclear from the record, however, whether Green has appeared before the parole board or discharged the sentence for his grand larceny conviction. The district court may consider any evidence in that respect on remand.