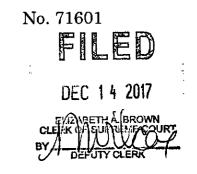
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DANTE BOUSLEY, Appellant, vs. QUENTIN BYRNE, WARDEN, Respondent.



ORDER VACATING JUDGMENT AND REMANDING

Dante Bousley appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on July 26, 2016.¹ Eleventh Judicial District Court, Pershing County; Jim C. Shirley, Judge.

Bousley argues 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 Bousley's claim, the district court did not have the benefit of the Nevada Supreme Court's recent decision in *Williams v. State*, 133 Nev. ____, 402 P.3d 1260 (2017). There, the court held 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. Bousley is serving a sentence for attempted murder committed on or between July 17, 1997, and June 30, 2007. *See* NRS 193.330(1)(a)(1); NRS 200.010; NRS 200.030. Consistent with *Williams*, the

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

credits Bousley has earned pursuant to NRS 209.4465 should be applied to his parole eligibility on the sentence he is serving for his attempted murder conviction.² The district court erred in ruling to the contrary. Accordingly, we

ORDER the judgment of the district court VACATED AND REMAND this matter to the district court for proceedings consistent with this order.³

Lilver Silver

. J.

Tao

Gibbons

Hon, Jim C. Shirley, District Judge cc: **Dante Bousley** Attorney General/Carson City Pershing County Clerk

²Bousley was also convicted of second-degree murder and his sentence for that conviction was pursuant to a statute that specified a minimum sentence that must be served before a defendant becomes eligible for parole. See NRS 200.030(5)(b). Because the statute specified a minimum sentence that must be served before a defendant becomes eligible for parole, credits Bousley earns cannot be applied toward the minimum parole eligibility for the sentence resulting from his second-degree murder conviction. See Williams, 133 Nev. at ___, 402 P.3d at 1262. Moreover, if Bousley has already expired a sentence or appeared before the parole board on a particular sentence, then the district court cannot grant any relief as to that count. See id. at ____ n.7, 402 P.3d at 1265 n.7. The district court may consider any evidence in that respect on remand.

³In light of our order, we deny Bousley's motion to appoint appellate counsel.

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