

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

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

No. 71601

FILED

DEC 14 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

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

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


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Jim C. Shirley, District Judge
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.