

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MARCUS SHEREEF MCNEAL,
Appellant,
vs.
BRIAN WILLIAMS, WARDEN,
Respondent.

No. 72425

FILED

DEC 14 2017

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

ORDER OF AFFIRMANCE

Marcus Shereef McNeal appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Linda Marie Bell, Judge.

McNeal argues the district court erred by denying his petition. In his July 11, 2016, petition, McNeal claimed the Nevada Department of Corrections (NDOC) improperly declined to apply his statutory credits toward his minimum term. The district court found McNeal was serving a sentence for category B felonies he committed in 2013.² For those reasons, the NDOC may only apply McNeal's statutory credits toward his maximum terms pursuant to NRS 209.4465(8)(d). Given these circumstances, we conclude the district court did not err in denying the petition.

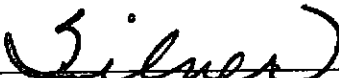
On appeal, McNeal also argues the sentencing court misapplied NRS 193.330 when imposing his sentence. However, McNeal did not raise

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


²The record demonstrates McNeal was serving prison terms for attempted murder and battery with the use of a deadly weapon, category B felonies. See NRS 193.330(1)(a)(1); NRS 200.030(4); NRS 200.481(2)(e).

this claim before the district court and we decline to consider it in the first instance. *See McNelton v. State*, 115 Nev. 396, 416, 990 P.2d 1263, 1276 (1999). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Linda Marie Bell, District Judge
Marcus Shereef McNeal
Attorney General/Carson City
Attorney General/Las Vegas
Eighth District Court Clerk