

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

SHANNON DEAN CARTER,
Appellant,
vs.
D. W. NEVEN; WARDEN,
Respondent.

No. 73868

FILED

APR 11 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER VACATING JUDGMENT AND REMANDING

Shannon Dean Carter appeals from a district court order denying the four postconviction petitions for a writ of habeas corpus he filed on August 8, 2016, and September 9, 2016.¹ Eighth Judicial District Court, Clark County; Linda Marie Bell, Judge.


Carter 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 Carter's claim, the district court did not have the benefit of the Nevada Supreme Court's recent decision in *Williams v. State Department of Corrections*, 133 Nev. ___, 402 P.3d 1260 (2017).² 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. Carter is serving


¹The district court consolidated all of the cases into one and issued one order disposing of all four petitions.

²Having considered Carter's pro se brief and given the decision in *Williams*, we conclude that a response is not necessary. NRAP 46A(c). This appeal has therefore been submitted for decision based on the pro se brief and the record. See NRAP 34(f)(3).

sentences pursuant to such statutes for second-degree kidnapping with the use of a deadly weapon committed on or between July 17, 1997, and June 30, 2007. See NRS 200.330; NRS 193.165 (1995). Consistent with *Williams*, the credits Carter has earned pursuant to NRS 209.4465 should be applied to his parole eligibility on the sentence he is serving. The district court erred by ruling to the contrary.³ Accordingly, we

ORDER the judgment of the district court VACATED AND REMAND this matter to the district court for the district court to reconsider its decision in light of *Williams*.⁴


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

³If a petitioner has already expired the sentence or appeared before the Nevada Board of Parole Commissioners on the sentence, the district court cannot grant any relief. *Williams*, 133 Nev. ___ n.7, 402 P.3d at 1265 n.7. Therefore, the district court cannot grant any relief for the statutory sexual seduction and domestic battery third offenses because Carter has already discharged or been paroled on these sentences. It is unclear from the record whether Carter has appeared before the parole board on his current sentence. The district court may consider any evidence in that respect on remand. It also appears Carter may have another sentence to serve after the second-degree kidnapping sentence. If that crime occurred between July 17, 1997, and June 30, 2007, and the statute does not specify a minimum term that must be served prior to parole eligibility, Carter should also receive credits toward his minimum term on that sentence.

⁴We also note the district court's order failed to address Carter's claim his credits are not being applied to his maximum terms. On remand, the district court should consider this claim.

cc: Hon. Linda Marie Bell, District Judge
Shannon Dean Carter
Attorney General/Carson City
Attorney General/Las Vegas
Eighth District Court Clerk