

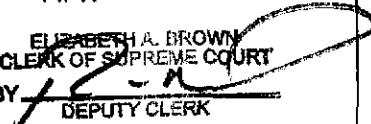
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

WILLIE SEAL LEWIS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 72928

**FILED**

APR 11 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER VACATING JUDGMENT AND REMANDING*

Willie Seal Lewis appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus challenging the computation of time served.<sup>1</sup> Eighth Judicial District Court, Clark County; Richard Scotti, Judge.

Lewis argues the district court erred by denying his February 7, 2017, petition. In his petition, Lewis claimed the Nevada Department of Corrections (NDOC) incorrectly refused to apply the credits he has earned pursuant to NRS 209.4465 toward his minimum terms. The district court denied the petition, finding Lewis alleged a violation of his civil rights and could not pursue such a claim in this petition.

In rejecting Lewis' petition, 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, 1262-65 (2017). There, the court held claims such as Lewis' are cognizable in a

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

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postconviction petition for a writ of habeas corpus and credits apply to parole eligibility, as provided in NRS 209.4465(7)(b) (1997), when an offender has been sentenced pursuant to a statute that does not expressly mention parole eligibility. In light of the *Williams* decision, we conclude district court erred in concluding Lewis could not raise this issue in a postconviction petition for a writ of habeas corpus.

In his petition, Lewis alleged he is serving a sentence for conspiracy to commit robbery and robbery with the use of a deadly weapon committed on or between July 17, 1997 and June 30, 2007. *See* NRS 199.165 (1995); NRS 199.480(1)(a) (1999); NRS 200.380(2). If Lewis' allegations are accurate, the credits Lewis has earned pursuant to NRS 209.4465 should be applied to his parole eligibility.<sup>2</sup> However, the record demonstrates the district court did not assess the veracity of Lewis' claims or request the Nevada Attorney General to respond to Lewis' petition as required by NRS 34.745(2).


Therefore, we vacate the decision of the district court and we direct the district court to consider the merits of Lewis' claim in accordance with the *Williams* decision. When weighing Lewis' claim, the district court


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<sup>2</sup>The district court cannot grant Lewis any relief on the sentence he is serving if he has already appeared before the parole board on that sentence. *See Williams*, 133 Nev. at \_\_\_, n.7, 402 P.3d at 1265 n.7. It is unclear from the record before this court whether Lewis has appeared before the parole board on his sentence, and the district court may consider any evidence in that respect on remand.

should consider evidence pertaining to Lewis' sentence and the NDOC's application of credits toward his sentence. Accordingly, we

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

  
\_\_\_\_\_, C.J.  
Silver

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Gibbons

cc: Hon. Richard Scotti, District Judge  
Willie Seal Lewis  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk

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<sup>3</sup>We have considered Lewis' September 5, 2017, motion. We conclude Lewis is only entitled to the relief described herein.