

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

KEVIN ANDREWS,
Appellant,
vs.
BRIAN WILLIAMS, WARDEN,
Respondent.

No. 71830

FILED

NOV 14 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

Kevin Andrews appeals from a district court order denying the postconviction petition for a writ of habeas corpus he filed on June 14, 2016.¹ Eighth Judicial District Court, Clark County; Linda Marie Bell, Judge.


In his petition, Andrews claimed the Nevada Department of Corrections was not applying the statutory credits he had earned to his minimum sentence as required by NRS 209.4465(7)(b). The district court determined Andrews was not entitled to good time credit deductions from his parole eligibility date because he was serving a sentence for a category B felony he committed in 2014.


Andrews appears to claim the district court erred in its interpretation of NRS 209.4465. We have reviewed the statute and conclude the district court correctly determined Andrews was not entitled to have credits deducted from his minimum sentences because he committed his crimes after NRS 209.4465 was amended in 2007 and NRS 209.4465(8)(d) excludes category B felons like Andrews from receiving

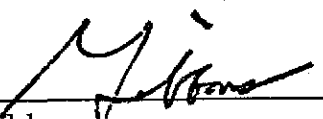
¹This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).

credit toward their minimum sentence. See NRS 205.060(2); 2007 Nev. Stat., ch. 525, §, 5, at 3177; see generally *Robert E. v. Justice Court of Reno Twp.*, 99 Nev. 443, 445, 664 P.2d 957, 959 (1983) (“When presented with a question of statutory interpretation, the intent of the legislature is the controlling factor and, if the statute under consideration is clear on its face, a court cannot go beyond the statute in determining legislative intent.”). Accordingly, we

ORDER the judgment of the district court AFFIRMED.²


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

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

²To the extent Andrews also claims his 48- to 120-month prison sentence is not a “statutory sentence” for purposes of NRS 209.4465, we decline to address this claim because it was not raised in his habeas petition or considered by the district court in the first instance. See *Davis v. State*, 107 Nev. 600, 606, 817 P.2d 1169, 1173 (1991), *overruled on other grounds by Means v. State*, 120 Nev. 1001, 103 P.3d 25 (2004).