

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ISAIAS VEGA-MARTINEZ,  
Appellant,  
vs.  
WARDEN WILLIAM SANDIE,  
Respondent.

No. 72883

**FILED**

FEB 14 2018

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

*ORDER VACATING JUDGMENT AND REMANDING*

Isaias Vega-Martinez appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on August 16, 2016. Eleventh Judicial District Court, Pershing County; Jim C. Shirley, Judge.

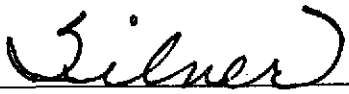
Vega-Martinez argues the credits he has earned pursuant to NRS 209.4465 must be applied to his parole eligibility as provided in NRS 209.4465(7)(b) (1997). In rejecting Vega-Martinez' claim, the district court did not have the benefit of the Nevada Supreme Court's recent decision in *Williams v. State*, 133 Nev. \_\_\_, \_\_\_, 402 P.3d 1260 (2017).<sup>1</sup> There, the court held claims such as Vega-Martinez' are cognizable in a 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

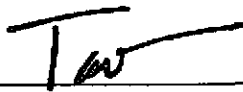
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<sup>1</sup>Having considered Vega-Martinez' pro se brief and given the decision in *Williams*, we conclude a response is not necessary. See NRAP 46A(c). This appeal therefore has been submitted for decision based on the pro se brief and the record. See NRAP 34(f)(3).

eligibility. Vega-Martinez is serving a sentence for conspiracy to commit murder and voluntary manslaughter with the use of a deadly weapon committed on or between July 17, 1997, and June 30, 2007. See NRS 193.165 (1995); NRS 199.480; NRS 200.080. Consistent with *Williams*, the credits Vega-Martinez has earned pursuant to NRS 209.4465 should be applied to his parole eligibility on the sentences he is serving for those convictions. The district court erred in ruling to the contrary.<sup>2</sup> Accordingly, we

ORDER the judgment of the district court VACATED AND REMAND this matter to the district court for proceedings consistent with this order.

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

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

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

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

cc: Hon. Jim C. Shirley, District Judge  
Isaias Vega-Martinez  
Attorney General/Carson City  
Pershing County Clerk