

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JUAN MORALES,

Appellant,

vs.

BRIAN WILLIAMS, WARDEN; THE  
STATE OF NEVADA; AND THE STATE  
OF NEVADA DEPARTMENT OF

CORRECTIONS,

Respondents.

No. 73258

**FILED**

APR 24 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY [Signature]  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Juan Morales appeals from an order of the district court denying the “plaintiff’s pro se complaint and request court’s order” filed on July 29, 2016.<sup>1</sup> Eighth Judicial District Court, Clark County; Linda Marie Bell, Judge.

In his complaint, Morales claimed the Nevada Department of Corrections improperly declined to apply his statutory credits toward his minimum term.<sup>2</sup> However, Morales failed to meet his burden in his petition to plead specific facts to support his claim, because he failed to allege what crime he committed or the year in which he committed his crime. *See* 2007 Nev. Stat., ch. 525, § 5, at 3177. The district court could have denied the petition on this basis. *See Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d


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<sup>1</sup>This appeal has been submitted for decision without oral argument and we conclude the record is sufficient for our review and briefing is unwarranted. NRAP 34(f)(3), (g).

<sup>2</sup>We conclude the district court did not abuse its discretion by construing Morales’ complaint as a postconviction petition for a writ of habeas corpus. *See* NRS 34.724(2)(c) (“[A] petition [i]s the only remedy available to an incarcerated person to challenge the computation of time that the person has served pursuant to a judgment of conviction.”).

222, 225 (1984). Nevertheless, the district court reached the merits and denied the petition finding Morales is serving a prison term for trafficking in a controlled substance, a category B felony, *see* NRS 453.3385(1), and he committed his crime in 2015. The record before this court does not contain a copy of Morales judgment of conviction indicating the nature of the crime he committed or a charging document indicating when Morales committed his crime. However, Morales has not challenged this finding by the district court. Therefore, we conclude the district court did not err by denying the petition. *See generally Williams v. State Dep't of Corr.*, 133 Nev. \_\_\_, 402 P.3d 1260 (2017) (credits apply to a petitioner's minimum term for category B felonies only when the crime was committed between July 17, 1997, and July 30, 2007, and the statute he or she is convicted under does not specify a minimum parole eligibility). Further, we note Morales would not be entitled to have his statutory credits applied to his minimum term under NRS 209.4465(7)(b) because, pursuant to NRS 453.3405(1), a person convicted under NRS 453.3385 "is not eligible for parole until the person has actually served the mandatory minimum term of imprisonment prescribed by the section under which the person was convicted." Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

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

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

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