

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ISMAEL SANCHEZ, JR.,
Appellant,
vs.
WARDEN BRIAN WILLIAMS, JR.
Respondent.

No. 73956

FILED

MAY 15 2018

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

ORDER OF AFFIRMANCE

Ismael Sanchez, Jr., appeals from an order of the district court denying his postconviction petition for a writ of habeas corpus challenging the computation of time he has served.¹ Eighth Judicial District Court, Clark County; Linda Marie Bell, Judge.

Sanchez claims the district court erred by denying his petition. Below, he claimed the Nevada Department of Corrections (NDOC) is not applying statutory credits to his minimum sentence pursuant to NRS 209.4465(7)(b). Sanchez' bare claim did not entitle him to relief. See *Hargrove v. State*, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984) (affirming the denial of an evidentiary hearing where a claim failed to allege specific factual allegations that, if true and not belied by the record, would have entitled the petitioner to relief). Since 2007, NRS 209.4465(7) has begun,

¹Sanchez filed several pleadings between May 3, 2016, and July 28, 2016, which were variously entitled "motion," "reply," "notice," and/or "complaint," and which the district court properly construed as a whole to be a postconviction petition for a writ of habeas corpus. See NRS 34.724(2)(c).

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

“Except as otherwise provided in subsection[] 8,” and NRS 209.4465(8) has specifically excluded an offender convicted of a category B felony from applying statutory credits to his minimum sentence. 2007 Nev. Stat., ch. 525, § 5, at 3177. Sanchez alleged his sentence was for a category B felony. However, he failed to indicate what crime he was convicted of or when he committed it and, thus, that he was entitled to relief. *See generally Williams v. State Dep’t of Corr.*, 133 Nev. ___, 402 P.3d 1260 (2017) (providing some inmates who committed their crimes prior to the 2007 amendments to NRS 209.4465 may be entitled to apply statutory credits to their minimum sentences if they committed certain offenses or were sentenced pursuant to certain types of sentencing statutes). We therefore affirm the denial of this claim.²


Sanchez also argues the district court violated his right to due process when it failed to acknowledge Sanchez’ motion for transport to court was granted, when it wrote the order of decision prior to his initial court appearance in September 2017, and when it failed to give him an opportunity to respond to the State’s request for dismissal. Sanchez’ claims are without merit. The record does not indicate Sanchez filed a motion for transport, the district court granted any such request, or the district court set or held a hearing in September 2017. And Sanchez’ claim regarding the State’s motion is belied by the record, which shows he responded to the State’s motion to strike his initial pleading. Sanchez has thus failed to


²Sanchez alleged only that his judgment of conviction was filed on October 6, 2015. The district court’s finding that Sanchez committed his crime after the 2007 amendments to NRS 209.4465 is neither supported nor belied by the record before this court. We nevertheless affirm the district court’s decision for the reasons stated above. *See Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970).

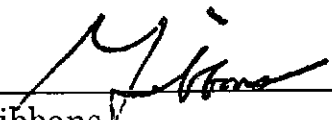
demonstrate the district court violated any right to due process. See *Hargrove*, 100 Nev. at 502-03, 686 P.2d at 225. We therefore conclude no relief is warranted based on these claims.

Finally, Sanchez argues NDOC is not providing him adequate opportunities to work, is improperly calculating his maximum sentence, and is failing to apply Senate Bill 25 to his sentence. These claims were not raised below, and we need not consider them on appeal in the first instance. See *McNelton v. State*, 115 Nev. 396, 416, 990 P.2d 1263, 1276 (1999).

Having concluded Sanchez is not entitled to relief, we
ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Linda Marie Bell, District Judge
Ismael Sanchez, Jr.
Attorney General/Carson City
Eighth District Court Clerk