


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ANDRE JERMAINE RUTLAND,  
Appellant,  
vs.  
JAMES DZURENDA, DIRECTOR; AND  
THE STATE OF NEVADA,  
Respondents.

No. 75453

**FILED**

AUG 24 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Andre Jermaine Rutland appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on April 17, 2018.<sup>1</sup> Eighth Judicial District Court, Clark County; Linda Marie Bell, Chief Judge.

In his petition, Rutland claimed the Nevada Department of Corrections was not applying the statutory credits he earned to his minimum sentences as required by NRS 209.4465(7)(b). The district court determined Rutland was not entitled to good time deductions from his parole eligibility date because he was serving sentences for category B felonies he committed after 2007.

Rutland 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 Rutland was not entitled to have credits deducted from his minimum sentence because he committed


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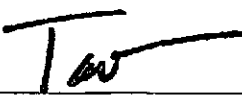
<sup>1</sup>This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).

his crimes after NRS 209.4465 was amended in 2007 and the 2007 amendments specifically exclude category B felons from receiving credit toward their minimum sentence.<sup>2</sup> See 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.”).

Rutland also claims the application of NRS 209.4465(8) violated the Ex Post Facto Clause. However, because he committed his crimes *after* NRS 209.4465(8) became effective in 2007, his claim is without merit. See *Weaver v. Graham*, 450 U.S. 24, 28-29 (1981).

Having concluded Rutland is not entitled to relief, we  
ORDER the judgment of the district court AFFIRMED.<sup>3</sup>

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

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

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

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<sup>2</sup>Rutland was convicted of burglary in two separate cases for crimes he committed in 2016 and 2017. See NRS 205.060(2).

<sup>3</sup>To the extent Rutland further claims his equal protection rights were violated, we decline to consider 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 (2003).

cc: Hon. Linda Marie Bell, Chief Judge  
Andre Jermaine Rutland  
Attorney General/Carson City  
Eighth District Court Clerk