

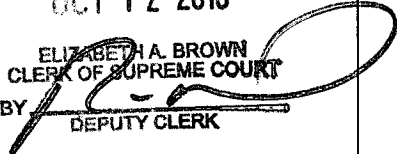
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RALPH M. GONZALES,
Appellant,
vs.
ISIDRO BACA, WARDEN,
Respondent.

No. 74990

FILED

OCT 12 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Ralph M. Gonzales appeals from a district court order dismissing a postconviction petition for a writ of habeas corpus filed on November 6, 2017.¹ First Judicial District Court, Carson City; James E. Wilson, Judge.

Gonzales claims the district court erred by dismissing his petition because the Nevada Department of Corrections was not properly applying his statutory credits to his sentence. He argues NRS 209.446 and NRS 209.4465 are conflicting statutes, NRS 209.4465 should be the controlling statute in his case, and the district court should have applied the rule of lenity in construing these statutes.² Thus, Gonzales presents an issue of statutory interpretation.

“[W]e review questions of statutory interpretation de novo,” our interpretation is controlled by legislative intent, and we will not look beyond

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

²To the extent Gonzales also claims the State confessed the error by failing to respond to the arguments in his petition, we conclude his claim is belied by the record.


a statute's plain meaning to determine legislative intent if the statute is clear on its face. *State v. Lucero*, 127 Nev. 92, 95, 249 P.3d 1226, 1228 (2011). If the statute is ambiguous, we will look to the legislative history, reason, and public policy to determine legislative intent. *Id.* A statute is ambiguous if it "lends itself to two or more reasonable interpretations." *Id.* (internal quotation marks omitted).

The plain language of NRS 209.446(1) and NRS 209.4465(1) demonstrates the applicability of a statute governing credits for good time is based on the date the offender committed his crime. These statutes do not conflict with each other because NRS 209.446 only applies to crimes committed "on or after July 1, 1985, but before July 17, 1997," and NRS 209.4465 only applies to crimes committed "on or after July 17, 1997." NRS 209.446(1); NRS 209.4465(1). And, because there is no unresolved ambiguity, the rule of lenity does not apply here. *See Lucero*, 127 Nev. at 99, 249 P.3d at 1230.

The record demonstrates Gonzales committed his crimes on December 31, 1995; consequently, we conclude the district court properly found that NRS 209.446 governed the application of credits in Gonzales' case and did not err by dismissing his petition. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. James E. Wilson, District Judge
Ralph M. Gonzales
Attorney General/Carson City
Carson City Clerk