

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DOUGLAS BAUMAN,
Appellant,
vs.
THE STATE OF NEVADA; THE STATE
OF NEVADA DEPARTMENT OF
CORRECTIONS; AND DIRECTOR
JAMES DZURENDA,
Respondents.

No. 75690

FILED

OCT 16 2018

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

ORDER OF AFFIRMANCE

Douglas Bauman appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Linda Marie Bell, Chief Judge.


Bauman argues the district court erred by denying his petition without properly considering his claims or directing the State to respond to the petition. In his September 15, 2017, petition, Bauman asserted the Nevada Department of Corrections (NDOC) had improperly declined to apply his statutory credits toward his aggregated minimum term pursuant to NRS 209.4465(7)(b). NRS 209.4465(7)(b) begins, "Except as otherwise provided in subsection[] 8" and NRS 209.4465(8)(d) specifically excludes offenders convicted of category A and B felonies from applying credits to their minimum sentences. Bauman claimed his controlling sentence was

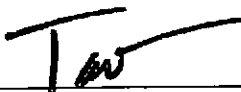
¹This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).

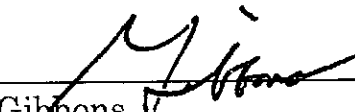
for a category B felony committed after the effective date for NRS 209.4465(8).² Given the record before this court, we conclude the district court properly found the NDOC was not permitted to apply statutory credits toward Bauman's minimum aggregated term. In addition, Bauman fails to demonstrate he is entitled to relief due to any failure by the district court to direct the State to respond to the petition.

To the extent Bauman asserted failure to apply credits to his minimum aggregated term violated the Equal Protection Clause, Bauman's claim lacked merit. Bauman failed to show he was similarly situated to other inmates whose sentences did not fall within NRS 209.4465(7)(b)'s exception, and precluding the most serious offenders from early release is rationally related to a legitimate governmental interest. See *Glauner v. Miller*, 184 F.3d 1053, 1054 (9th Cir. 1999) ("[P]risoners are not a suspect class and there is no fundamental constitutional right to parole."); *Gaines v. State*, 116 Nev. 359, 371, 998 P.2d 166, 173 (2000) (discussing levels of review). Therefore, we conclude the district court properly denied the petition, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

²In his petition, Bauman stated his controlling sentence stems from his 2016 conviction for burglary, a category B felony. See NRS 205.060(2)

cc: Hon. Linda Marie Bell, Chief Judge
Douglas Bauman
Attorney General/Carson City
Eighth District Court Clerk