

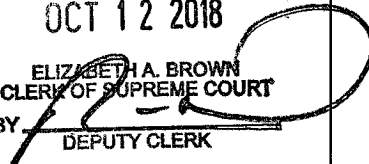
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOEL ALVARA-RIVERA,
Appellant,
vs.
BRIAN WILLIAMS, WARDEN,
Respondent.

No. 74889

FILED

OCT 12 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Joel Alvara-Rivera appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on February 3, 2017.¹ Eighth Judicial District Court, Clark County; Linda Marie Bell, Chief Judge.

In his petition, Alvara-Rivera 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 Alvara-Rivera was not entitled to have good time credits applied his parole eligibility date because he was serving sentences for category B felonies he committed after 2007.


Alvara-Rivera 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 Alvara-Rivera was not entitled to have statutory credits applied to his minimum sentence because he committed his crimes after NRS 209.4465 was amended in 2007 and the

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

2007 amendments specifically exclude category B felons from receiving credit toward their minimum sentence.² 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.”). Accordingly, we

ORDER the judgment of the district court AFFIRMED.³


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

²Alvara-Rivera was convicted of two counts of conspiracy to commit robbery, two counts of robbery with the use of a deadly weapon, grand larceny of a motor vehicle, and failure to stop on the signal of a police officer for crimes he committed in 2014. See NRS 193.165(1); NRS 199.480(1); NRS 200.380(2); NRS 205.228(3); NRS 484B.550(3)(b).

³To the extent Alvara-Rivera 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
Joel Alvara-Rivera
Attorney General/Carson City
Attorney General/Las Vegas
Eighth District Court Clerk