

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JUAN CARLOS JACOBO GARCIA,
Appellant,
vs.
BRIAN WILLIAMS, SR., WARDEN;
THE STATE OF NEVADA
DEPARTMENT OF CORRECTIONS;
AND THE STATE OF NEVADA,
Respondents.

No. 75460

FILED

OCT 12 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Juan Carlos Jacobo Garcia appeals from an order of the district court granting in part and denying in part a postconviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Linda Marie Bell, Chief Judge.

Garcia argues the district court erred by concluding he was not entitled to application of credits toward the minimum sentences for his conviction of first-degree kidnapping with the use of a deadly weapon. In his May 16, 2016, petition, Garcia claimed the Nevada Department of Corrections (NDOC) erroneously failed to apply his statutory credits toward his minimum terms. The district court found that Garcia committed his offenses in 2001 and was entitled to the application of credits to his minimum terms for his convictions of conspiracy to commit robbery,

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


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burglary while in possession of a firearm, and robbery with the use of a deadly weapon.

However, the district court found that Garcia was not entitled to the application of credits toward the minimum terms for his kidnapping with the use of a deadly weapon conviction because he was sentenced for that offense pursuant to statutes that specified minimum terms that must be served before a defendant becomes eligible for parole. See 1995 Nev. Stat., ch. 455, § 1, at 1431 (former NRS 193.165); NRS 200.320(2). Because the statutes specified minimum sentences that must be served before Garcia becomes eligible for parole, the NDOC may not apply statutory credits to reduce Garcia's minimum terms for his conviction of kidnapping with the use of a deadly weapon. See NRS 209.4465(7)(b); *Williams v. State Dep't of Corr.*, 133 Nev. ___, ___, 402 P.3d 1260, 1262 (2017). After a review of the record, we conclude the district court did not err in this regard. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Linda Marie Bell, Chief Judge
Juan Carlos Jacobo Garcia
Attorney General/Carson City
Attorney General/Las Vegas
Eighth District Court Clerk