

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GEORGE THOMAS LOVELL, JR.,
Appellant,
vs.
ISIDRO BACA, WARDEN,
Respondent.

No. 75242

FILED

AUG 30 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

George Thomas Lovell, Jr., appeals from a district court order dismissing a postconviction petition for a writ of habeas corpus filed on November 13, 2017, and an amended postconviction petition for a writ of habeas corpus filed on November 20, 2017.¹ First Judicial District Court, Carson City; James Todd Russell, Judge.

Lovell claims the district court erred by dismissing his petition because the Nevada Department of Corrections was improperly applying statutory credits to his sentence based on NRS 209.446. 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, Lovell presents an issue of statutory interpretation.

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

²To the extent Lovell also claims the State confessed the error by failing to respond to his amended postconviction petition and his opposition to the State's motion to dismiss, we conclude his claim is belied by the record.

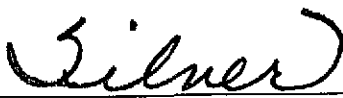
18-901958


"[W]e review questions of statutory interpretation de novo," our interpretation is controlled by legislative intent, and we will not look beyond 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). Moreover, the rule of lenity does not apply because there is no unresolved ambiguity. *See Lucero*, 127 Nev. at 99, 249 P.3d at 1230.

Because the record demonstrates Lovell committed his crimes on December 4, 1996, we conclude the district court properly found that NRS 209.446 governed the application of credits in Lovell's 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 Todd Russell, District Judge
George Thomas Lovell
Attorney General/Carson City
Carson City Clerk