

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ROBERT WILLIAM ELLIOTT,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 74016

**FILED**

AUG 14 2018

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

*ORDER VACATING JUDGMENT AND REMANDING*

Robert William Elliott appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on July 1, 2016.<sup>1</sup> Eighth Judicial District Court, Clark County; Linda Marie Bell, Judge.

In his petition, Elliott claimed the Nevada Department of Corrections incorrectly refused to apply the credits he has earned pursuant to NRS 209.4465 toward the minimum term he is serving for his robbery-with-the-use-of-a-deadly-weapon convictions. In rejecting Elliott's claim, the district court did not have the benefit of the Nevada Supreme Court's recent decision in *Williams v. State Department of Corrections*, 133 Nev. \_\_\_, 402 P.3d 1260 (2017).<sup>2</sup> There, the court held claims such as Elliott's are cognizable in a postconviction petition for a writ of habeas corpus and credits apply to parole eligibility, as provided in NRS 209.4465(7)(b) (1997),

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

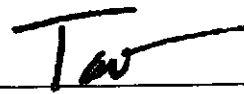
<sup>2</sup>Having considered the record before this court, and given the decision in *Williams*, we conclude a response is not necessary. See NRAP 46A(c).

when an offender has been sentenced pursuant to a statute that does not expressly mention parole eligibility.

Elliott is serving sentences for robbery with the use of a deadly weapon committed in 2004. See NRS 193.165(1) (1995); NRS 200.380(2). Consistent with *Williams*, the credits Elliott has earned pursuant to NRS 209.4465 should be applied to his parole eligibility on the sentence he is serving for that conviction. The district court erred in ruling to the contrary.<sup>3</sup> Accordingly, we

ORDER the judgment of the district court VACATED AND REMAND this matter to the district court for proceedings consistent with this order.

  
\_\_\_\_\_, C.J.  
Silver

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Gibbons

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<sup>3</sup>The district court cannot grant Elliott any relief on his sentence for any counts where he has already appeared before the parole board. See *Williams*, 133 Nev. at \_\_\_ n.7, 402 P.3d at 1265 n.7. It is unclear from the record whether Elliott has appeared before the parole board and the district court may consider any evidence in that respect on remand.

cc: Hon. Linda Marie Bell, District Judge  
Robert William Elliott  
Attorney General/Carson City  
Attorney General/Las Vegas  
Eighth District Court Clerk