

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

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

No. 74661

FILED

JUL 17 2018

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

ORDER OF AFFIRMANCE

Randy Ibold appeals from an order of the district court denying the postconviction petition for a writ of habeas corpus filed on January 6, 2017.¹ Eighth Judicial District Court, Clark County; Linda Marie Bell, Judge.


In his petition, Ibold claimed the Nevada Department of Corrections (NDOC) improperly declined to apply his statutory credits toward his minimum term. The district court denied the petition because Ibold is serving a prison term for burglary with possession of a firearm, a category B felony, see NRS 205.060(4), and he committed his crime in 2013. For those reasons, the NDOC may only apply Ibold's statutory credits toward his maximum term pursuant to NRS 209.4465(8)(d). Given these

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

circumstances, we conclude the district court did not err by denying this claim.² Accordingly, we

ORDER the judgment of the district court AFFIRMED.³


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

²The district court also denied the petition as moot because the only remedy available to Ibold was to hold an expedited parole hearing and Ibold had already received a parole hearing. We conclude the district court erred by denying the petition as moot. Based on the record on appeal, Ibold had a parole hearing on a different conviction on the date cited by the district court. However, because the district court also correctly denied the petition on the merits, we affirm the denial of the petition.

³On appeal, Ibold argues the State failed to demonstrate his statutory credits were deducted from his maximum sentence and he received his work and programming credits. These claims were raised in an amended petition filed in the district court. Ibold did not have permission to file an amended petition. See NRS 34.750(5). Therefore, the State was not required to respond to this pleading. Ibold also argues his parole offender risk should be lower because he should have received meritorious credits in a different case. This claim was not raised below, and we decline to consider it for the first time on appeal. *McNelton v. State*, 115 Nev. 396, 416, 990 P.2d 1263, 1276 (1999).

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