

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LAVERN CHARLES FASTHORSE,
Appellant,
vs.
JAMES DZURENDA, DIRECTOR; N.V.
DOC; JO GENTRY, WARDEN;
JONATHAN J. COOPER, DA; AND
JEREMY B. WOOD, DPD,
Respondents.

No. 75915-COA

FILED

JAN 17 2019

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

ORDER OF AFFIRMANCE

Lavern Charles Fasthorse appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on May 31, 2017.¹ Eighth Judicial District Court, Clark County; Linda Marie Bell, Chief Judge.

In his petition, Fasthorse claimed the Nevada Department of Corrections was not applying the statutory credits he earned to his minimum sentence as required by NRS 209.4465. The district court determined Fasthorse was not entitled to have good time credits applied to his parole eligibility date because he was serving a sentence for a category B felony he committed after 2007.


On appeal, Fasthorse 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 Fasthorse was not entitled to have credits applied to his minimum sentence because he committed his


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

crime after NRS 209.4465 was amended in 2007 and the 2007 amendments specifically exclude category B felons from receiving credit toward their minimum sentence.² See 2007 Nev. Stat., ch. 525, § 5, at 3177; NRS 209.4465(8)(d); 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 can not go beyond the statute in determining legislative intent.”). Accordingly, we

ORDER the judgment of the district court AFFIRMED.³


_____, A.C.J.
Douglas


_____, J.
Tao


_____, J.
Gibbons

²Fasthorse was convicted of theft for a crime he committed on or between November 18, 2013, and February 14, 2014. See NRS 205.0835(4).

³To the extent Fasthorse claimed the application of NRS 209.4465(8) violated the Ex Post Facto Clause, his claim is without merit because he committed his crime *after* NRS 209.4465(8) became effective in 2007. See *Weaver v. Graham*, 450 U.S. 24, 28-29 (1981).

We have reviewed all documents Fasthorse has filed in this matter, and we conclude no relief based upon those submissions is warranted. To the extent Fasthorse has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we decline to consider them in the first instance.

cc: Hon. Linda Marie Bell, Chief Judge
Lavern Charles Fasthorse
Attorney General/Carson City
Attorney General/Las Vegas
Eighth District Court Clerk