

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DANNY RAY SHAW,
Appellant,
vs.
PERRY RUSSELL, WARDEN,
Respondent.

No. 75683-COA

FILED

JAN 25 2019

ELIZABETH A. BROWN
CLERK OF THE COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

Danny Ray Shaw appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on February 14, 2018.¹ First Judicial District Court, Carson City; James Todd Russell, Judge.

In his petition, Shaw claimed the Nevada Department of Corrections was not applying the statutory credits he earned to his minimum sentence as required by NRS 209.4465(7)(b). The district court determined Shaw was not entitled to have good time credits applied to his parole eligibility because he was sentenced under statutes that specified minimum terms that must be served before he is eligible for parole.


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

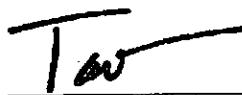
On appeal, Shaw appears to claim the district court erred in its interpretation of NRS 209.4465 and its application of *Williams v. State Department of Corrections*, 133 Nev. ___, 402 P.3d 1260 (2017), to the facts of his case. We have reviewed the statute and the *Williams* decision, and we conclude the district court correctly determined Shaw was not entitled to have credits applied to his parole eligibility.

In *Williams*, the Nevada Supreme Court held that credits earned under NRS 209.4465 apply to parole eligibility as provided in NRS 209.4465(7)(b) (1997) “if the sentencing statute did not specify a minimum sentence that had to be served before parole eligibility.” 133 Nev. at ___, 402 P.3d at 1262. Shaw was sentenced under statutes that specified a minimum term that must be served before parole eligibility. See NRS 193.165(1) (1995) (providing the sentence imposed for the weapon enhancement must be equal and consecutive to the sentence imposed for the primary offense); NRS 200.030(5)(a) (setting forth the sentence of “life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served”); NRS 200.320(2)(b) (setting forth the sentence of “a definite term of 15 years, with eligibility for parole beginning when a minimum of 5 years has been served”). Consequently,

the credits Shaw earns under NRS 209.4465 *cannot* be applied to his parole eligibility, and we

ORDER the judgment of the district court AFFIRMED.²


_____, A.C.J.
Douglas


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. James Todd Russell, District Judge
Danny Ray Shaw
Attorney General/Carson City
Carson City District Attorney
Carson City Clerk

²Shaw's claim that the district court erred by summarily dismissing his petition without providing him an opportunity to file a response is belied by the record, which demonstrates the district court did not summarily dismiss the petition, the State did not move to dismiss the petition, and Shaw was not authorized to file further pleadings. See NRS 34.750 (4), (5); *Hargrove v. State*, 100 Nev. 498, 503, 686 P.3d 222, 225 (1984) (a petitioner is not entitled to postconviction relief if his claims are belied by the record).