

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ANTHONY CLARKE,  
Appellant,  
vs.  
SEC. JAMES DZURENDA OF NDOC;  
AND ISIDRO BACA, WARDEN,  
Respondents.

No. 75973-COA

**FILED**

JAN 25 2019

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Anthony Clarke appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus.<sup>1</sup> First Judicial District Court, Carson City; James Todd Russell, Judge.


Clarke argues the district court erred by denying his March 12, 2017, petition. In his petition, Clarke first claimed the Nevada Department of Corrections (NDOC) has improperly declined to apply his good-time credits toward his minimum term. The district court concluded Clarke was not entitled to relief because he was convicted of a category B felony, committed the offense in 2017, and for those reasons, NDOC may only apply Clarke's credits toward his maximum term pursuant to NRS 209.4465(8).<sup>2</sup> Given these circumstances, we conclude the district court did not err by denying this claim.

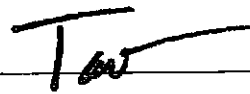
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<sup>1</sup>This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).

<sup>2</sup>The record demonstrated Clarke was convicted of sale of a controlled substance, a category B felony. See NRS 453.321(2).

Second, Clarke appeared to claim the application of NRS 209.4465(8) violates the Ex Post Facto Clause. However, because Clarke committed his crime after NRS 209.4465(8) became effective in 2007, his claim was without merit. *See Weaver v. Graham*, 450 U.S. 24, 28-29 (1981). Therefore, the district court did not err by denying the petition, and we  
ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, A.C.J.  
Douglas

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

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

cc: Hon. James Todd Russell, District Judge  
Anthony Clarke  
Attorney General/Carson City  
Carson City Clerk