

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

IVAN MICHAEL DOMINGUEZ,
Appellant,
vs.
JO GENTRY, WARDEN; AND OMA
DWAYNE BEAL,
Respondents.

No. 75689-COA

FILED

JAN 31 2019

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

ORDER OF AFFIRMANCE

Ivan Michael Dominguez appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on December 9, 2016.¹ Eighth Judicial District Court, Clark County; Linda Marie Bell, Chief Judge.

Dominguez 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). We conclude the district court properly determined Dominguez was not entitled to have good time credits applied to his parole eligibility.

Dominguez is actively serving a sentence for first-degree murder, and he has a consecutive sentence pending for the use of a deadly weapon. He committed these crimes before July 1, 2007. Therefore, the

¹This appeal has been submitted for decision without oral argument and we conclude the record is sufficient for our review and briefing is unwarranted. NRAP 34(f)(3), (g).


2007 amendments to NRS 209.4465 do not apply to his case. *See* 2007 Nev. Stat., ch. 525, § 22, at 3196; *see generally* *State v. Second Judicial Dist. Court (Pullin)*, 124 Nev. 564, 567, 188 P.3d 1079, 1081 (2008) (“[U]nder Nevada law, the proper penalty is the penalty in effect at the time of the commission of the offense.”).


In *Williams v. State Department of Corrections*, 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. ___, ___, 402 P.3d 1260, 1262 (2017). Dominguez 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(4)(b)(2) (setting forth the sentence of “life with the possibility of parole, with parole eligibility beginning when a minimum of 20 years has been served”). Consequently, the credits Dominguez earns under NRS 209.4465 *cannot* be applied to his parole eligibility.


Dominguez also claimed the Nevada Department of Corrections’ application of his statutory credits violated the Equal Protection and Ex Post Facto Clauses. He appeared to argue that he was entitled to the benefits of the 2007 amendments under the Equal Protection Clause and that exclusion provisions in the 2007 amendments do not apply under the Ex Post Facto Clause. We conclude the district court properly determined his equal protection and ex post facto rights were not violated.

See Weaver v. Graham, 450 U.S. 24, 28-29 (1981); *Gaines v. State*, 116 Nev. 359, 371, 998 P.2d 166, 173 (2000).

Having concluded Dominguez is not entitled to relief, we
ORDER the judgment of the district court AFFIRMED.


_____, A.C.J.
Douglas


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Linda Marie Bell, Chief Judge
Ivan Michael Dominguez
Attorney General/Carson City
Attorney General/Las Vegas
Eighth District Court Clerk