

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

STEVEN EDWARD CANO,
Appellant,
vs.
THE STATE OF NEVADA; AND NDOC
DIRECTOR JAMES DZURENDA,
Respondents.

No. 76193

FILED

FEB 12 2019

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

ORDER OF AFFIRMANCE

Steven Edward Cano appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on January 9, 2018 and an amended petition for a writ of habeas corpus filed on February 1, 2018.¹ Eighth Judicial District Court, Clark County; Linda Marie Bell, Chief Judge.

First, Cano argued the Nevada Department of Corrections (NDOC) improperly declined to apply his statutory credits to the minimum term of his sentence, which constitutes cruel and unusual punishment. The district court found Cano was convicted of burglary and attempted robbery, category B felonies, *see* NRS 193.330(1)(a)(2); NRS 200.380(2); NRS 205.060(2), and was convicted of attempted child abuse, neglect, or endangerment, a category C felony that involved the use of violence. Cano committed these offenses in 2016. Therefore, the district court concluded NDOC may only apply Cano's credits toward his maximum term pursuant to NRS 209.4465(8). We conclude the district court did not err by denying

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

this claim. For the same reasons, we conclude Cano cannot demonstrate he is suffering from cruel and unusual punishment.

Second, Cano argued NDOCs refusal to apply his statutory credits to his minimum term violated the Equal Protection Clause. We conclude Cano failed to demonstrate an equal protection violation. See *Vickers v. Dzurenda*, 134 Nev. Adv. Op. 91 *8, ___ P.3d ___, ___ (Ct. App. 2018).


Third, Cano argued NDOC was not providing him an equal opportunity to earn work credits toward his sentence based on his custody level. Therefore, he claimed this was an equal protection violation. Because this claim challenged the conditions of confinement, Cano's claim was not cognizable in a petition for a writ of habeas corpus. See *Bowen v. Warden*, 100 Nev. 489, 490, 686 P.2d 250, 250 (1984).


Finally, Cano argued the system NDOC uses to determine the computation of time served is "fictional." Cano failed to support this claim with specific facts that, if true, would entitle him to relief. See *Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984).

For the reasons stated above, we conclude the district court did not err by denying Cano's petition, and we

ORDER the judgment of the district court AFFIRMED.


_____, A.C.J.
Douglas


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Linda Marie Bell, Chief Judge
Steven Edward Cano
Attorney General/Las Vegas
Eighth District Court Clerk