

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOHN JOE NUNLEY, JR.,
Appellant,
vs.
WARDEN; AND HIGH DESERT STATE
PRISON,
Respondents.

No. 75488-COA

FILED

FEB 13 2019

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

ORDER OF AFFIRMANCE

John Joe Nunley, Jr., appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on March 17, 2017.¹ Eighth Judicial District Court, Clark County; Linda Marie Bell, Chief Judge.


Nunley claimed the Nevada Department of Corrections (NDOC) improperly declined to apply his statutory credits to the minimum term of his sentence. The district court concluded Nunley was not entitled to relief because he is currently serving a prison sentence for burglary, a category B felony, *see* NRS 205.060(2), committed the offense in 2015, and for those reasons, NDOC may only apply Nunley's credits toward his maximum term pursuant to NRS 209.4465(8)(d). Given these circumstances, we conclude the district court did not err by denying this claim.


Nunley also claimed NDOC's failure to apply his credits to his minimum term constituted an Ex Post Facto Clause violation. We conclude

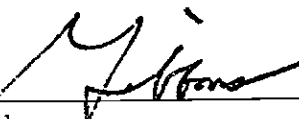
¹This appeal has been submitted for decision without oral argument and we conclude the record is sufficient for our review and briefing is unwarranted. NRAP 34(f)(3), (g).

Nunley failed to demonstrate a violation because NRS 209.4465(7)(b) and NRS 209.4465(8) were in effect at the time he committed his crime and, therefore, were properly applied to him. *See Weaver v. Graham*, 450 U.S. 24, 28-29 (1981). Accordingly, we

ORDER the judgment of the district court AFFIRMED.²


_____, A.C.J.
Douglas


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Linda Marie Bell, Chief Judge
John Joe Nunley, Jr.
Attorney General/Las Vegas
Eighth District Court Clerk

²We conclude the district court did not err by transferring the August 11, 2017, petition challenging Nunley's judgment of conviction and the supplements he filed to a separate district court case number to be resolved separately from this action. *Cf.* NRS 34.738(3).