

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

NOLAN KYLE,  
Appellant,

vs.

JAMES DZURENDA, DIRECTOR;  
NDOC; AND THE STATE OF NEVADA,  
Respondents.

No. 75560-COA

**FILED**

FEB 15 2019

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Nolan Kyle appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus.<sup>1</sup> Eighth Judicial District Court, Clark County; Linda Marie Bell, Chief Judge.

In his November 21, 2017, petition, Kyle first claimed the Nevada Department of Corrections (NDOC) improperly declined to apply his statutory credits toward his parole eligibility date. The district court concluded Kyle was serving concurrent terms for convictions of possession of document or personal identifying information and robbery, and committed those offenses in 2016 and 2017. The district court further found Kyle's parole eligibility date was "based on the sentence which requires the longest period before [Kyle] is eligible for parole," NRS 213.1213(1), and for that reason, Kyle's parole eligibility date was controlled by his robbery sentence because it contained the longest minimum term. See NRS 200.380(2); NRS 205.465(2). Accordingly, Kyle was not entitled to relief

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<sup>1</sup>This 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).


because his controlling sentence was for a category B felony, committed after the effective date of NRS 209.4465(8), and for those reasons, Kyle was not entitled to application of credits toward his minimum parole eligibility date. Given these circumstances, we conclude the district court did not err by denying this claim.

Second, Kyle appeared to claim the application of NRS 209.4465(8) violates the Ex Post Facto Clause. However, because Kyle 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. Linda Marie Bell, Chief Judge  
Nolan Kyle  
Attorney General/Las Vegas  
Eighth District Court Clerk