

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ROBERT LEE JOHNSON,
Appellant,
vs.
ISIDRO BACA, WARDEN,
Respondent.

No. 75585-COA

FILED

FEB 15 2019

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

ORDER OF AFFIRMANCE

Robert Lee Johnson appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on January 3, 2018.¹ First Judicial District Court, Carson City; James Todd Russell, Judge.

Johnson argues the district court erred by denying his claim the Nevada Department of Corrections (NDOC) has improperly declined to apply his credits toward his minimum sentence. Johnson argued he was convicted pursuant to a statute that did not require a minimum term be served prior to parole eligibility, and therefore, his statutory credits should apply to his minimum sentence.² The district court concluded Johnson was convicted of trafficking in a controlled substance, a category B felony, see NRS 453.3385(2) (1999), committed in 2014, and for those reasons, NDOC

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


²Johnson failed to demonstrate NDOC has misinterpreted NRS 209.4465(7), NRS 209.4465(8)(d), and NRS 213.120(2). See *Hobbs v. State*, 127 Nev. 234, 237, 251 P.3d 177, 179 (2011); *Edgington v. Edgington*, 119 Nev. 577, 582-83, 80 P.3d 1282, 1286-87 (2003).

may only apply Johnson's credits toward his maximum term pursuant to NRS 209.4465(8)(d).

We conclude the record supports the findings of the district court. Moreover, we note Johnson was not entitled to credits toward his minimum term under NRS 209.4465(7)(b) because, pursuant to NRS 453.3405(1), a person convicted under NRS 453.3385 "is not eligible for parole until the person has actually served the mandatory minimum term of imprisonment prescribed by the section under which the person was convicted." Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, A.C.J.
Douglas


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. James Todd Russell, District Judge
Robert Lee Johnson
Attorney General/Carson City
Carson City Clerk