

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL ROBERT PERSON,
Appellant,
vs.
THE STATE OF NEVADA
DEPARTMENT OF CORRECTIONS;
AND PERRY RUSSELL, WARDEN,
Respondents.

No. 76403

FILED

FEB 20 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a pro se appeal from a district court order denying Michael Robert Person's postconviction petition for a writ of habeas corpus.¹ First Judicial District Court, Carson City; James Todd Russell, Judge.

Person argues that the district court erred in denying his petition. In particular, Person claims that he was denied due process and should be released from custody and/or awarded monetary damages because respondents did not timely apply the credits he earned under NRS 209.4465 to the minimum term of his sentences as provided by NRS 209.4465(7)(b).² We disagree.

¹Having considered the pro se brief filed by Person, we conclude that a response is not necessary. NRAP 46A(c). This appeal therefore has been submitted for decision based on the pro se brief and the record. See NRAP 34(f)(3).

²Although Person was convicted of category B felonies, his credits could be applied to the minimum term of his sentence because he committed the offenses before the 2007 amendments to NRS 209.4465 that excluded category B felonies from the purview of NRS 209.4465(7)(b). See *Williams v. Nev., Dep't of Corr.*, 133 Nev., Adv. Op. 75, 402 P.3d 1260 (2017).

As we observed in *Williams*, the effect of NRS 209.4465(7)(b) is to advance an inmate's eligibility for parole; it does not require that the inmate be released on parole upon becoming eligible. 133 Nev., Adv. Op. 75, 402 P.3d at 1262, 1265 n.7. For this reason, when the inmate has already discharged the sentence or has been afforded a parole hearing, there is no relief available for the failure to apply statutory credits to the minimum term of the inmate's sentence. *Id.* at 1265 n.7. Here, Person had discharged the sentence for one of the convictions and the related enhancement, and respondents had applied the statutory credits to the minimum term of his aggregated sentence on the remaining conviction and recalculated his parole eligibility date; which made him parole eligible. Accordingly, there was no further relief available. In particular, Person was not entitled to be released and the monetary relief he seeks is not available in a postconviction habeas petition. For these reasons, the district court did not err in denying the petition. We therefore

ORDER the judgment of the district court AFFIRMED.

Pickering, J.
Pickering

Parraguirre, J.
Parraguirre

Cadish, J.
Cadish

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